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United Nations Relief and Works Agency for Palestine Refugees in the Near East

Persons displaced as a result of the June 1967 and subsequent hostilities

Report of the Secretary-General

Summary

In its resolution 61/113, the General Assembly requested the Secretary-General to report to it, after consulting with the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), on the progress made in the implementation of the resolution.

The present report refers to correspondence between the Secretary-General and the Permanent Representative of Israel to the United Nations regarding actions taken by the Government of Israel in implementing the relevant provisions of the resolution. It also presents the information made available by the Commissioner-General of UNRWA to the Secretary-General on the return of refugees registered with the Agency to the West Bank and the Gaza Strip from Jordan, Lebanon and the Syrian Arab Republic, and additional information provided by the Permanent Observer of Palestine to the United Nations.

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1. The present report is submitted to the General Assembly in pursuance of paragraph 5 of its resolution 61/113, entitled "Persons displaced as a result of the June 1967 and subsequent hostilities", the operative part of which reads:

> *The General Assembly*,
>
> ...
>
> 1. *Reaffirms* the right of all persons displaced as a result of the June 1967 and subsequent hostilities to return to their homes or former places of residence in the territories occupied by Israel since 1967;
>
> 2. *Expresses deep concern* that the mechanism agreed upon by the parties in article XII of the Declaration of Principles on Interim Self-Government Arrangements of 13 September 1993 on the return of displaced persons has not been complied with, and stresses the necessity for an accelerated return of displaced persons;
>
> 3. *Endorses*, in the meanwhile, the efforts of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East to continue to provide humanitarian assistance, as far as practicable, on an emergency basis, and as a temporary measure, to persons in the area who are currently displaced and in serious need of continued assistance as a result of the June 1967 and subsequent hostilities;
>
> 4. *Strongly appeals* to all Governments and to organizations and individuals to contribute generously to the Agency and to the other intergovernmental and non-governmental organizations concerned for the above-mentioned purposes;
>
> 5. *Requests* the Secretary-General, after consulting with the Commissioner-General, to report to the General Assembly before its sixty-second session on the progress made with regard to the implementation of the present resolution.

2. On 8 June 2007, the Secretary-General addressed notes verbales to the Permanent Representatives of Member States, including the Permanent Representative of Israel to the United Nations, in which he drew attention to his reporting responsibility under the resolution and requested the Permanent Representative to inform him of any action his Government had taken or envisaged taking in implementation of the relevant provisions of the resolution.

3. In a note verbale dated 16 August 2007, the Permanent Representative of Israel replied as follows:

> At the outset, Israel wishes to note developments on the ground which occurred since the adoption of these resolutions by the General Assembly. With the emergence of a Palestinian government that accepts the three basic principles of the international community — recognizing Israel, renouncing violence and terror, and abiding by previous agreements — there is great potential for progress on an Israeli-Palestinian dialogue and the promotion of a political horizon to further the process. Indeed, the events of the past few weeks, among them meetings between senior Israeli and Palestinian officials, attest to this reality.

Despite Hamas' deliberate and cynical terrorist attacks on the very crossing points used to enable the entry of humanitarian aid into the Gaza Strip, Israel has made major efforts to keep these crossing points open in coordination with the United Nations and its specialized agencies. Indeed since 19 June 2007, more than 50,000 tons of humanitarian aid have been transferred through the Sufra crossing, and more than 4,000 tons passed through the Kerem Shalom crossing.

Additionally, during Hamas' takeover of the Gaza Strip in June 2007, Israel immediately responded to calls by United Nations agencies and personnel for safe passage into Israel to escape the chaos and violence.

Israel would like to see the crossing points open for the transfer of commercial merchandise in and out of the area but this is particularly difficult due to continuing rocket and mortar attacks against the crossing points.

Israel supports the humanitarian mission of UNRWA and recognizes its important contribution to the welfare of the Palestinian refugees. While Israel believes that UNRWA could be an important vehicle to promote peace and stability in the region it remains concerned with politicization of UNRWA. Israel holds that any resolution adopted regarding UNRWA must deal solely with its operations and avoid extraneous political issues introduced to single out one country, prejudice decisions regarding permanent status negotiations, and promote the interests of one side of the conflict.

Israel is in favour of consolidating UNRWA resolutions and removing any extraneous political language. This is consistent with the general efforts aimed at the reform and revitalization of the work of the General Assembly.

Israel looks forward to continuing its cooperation and working relationship with UNRWA. Accordingly, Israel urges the Secretary-General and UNRWA to consider, together with the parties involved, ways in which the organization can enhance the fulfilment of UNRWA's mandate in an accountable and responsible manner in the best interests of those whom it has been charged to serve.

4. In a note verbale dated 2 August 2007, the Permanent Observer of Palestine to the United Nations replied in respect of resolution 61/113:

In resolution 61/113, "Persons displaced as a result of the June 1967 and subsequent hostilities", the Assembly, inter alia, "reaffirms the right of all persons displaced as a result of the June 1967 and subsequent hostilities to return to their homes or former places of residence in the territories occupied by Israel since 1967". Regrettably, Israel, the occupying Power, has not respected this right and has not complied with the mechanism agreed upon by the parties in the 1993 Declaration of Principles for a return of the displaced persons. In resolution 61/113, the Assembly expresses concern about this issue and stresses the necessity for an accelerated return of displaced persons. In this connection, it is also important to refer to the Assembly's endorsement of the Commissioner-General's efforts to provide humanitarian assistance, on an emergency basis and as a temporary measure, to persons in the area who are currently displaced and in need of assistance, and to underscore the appeal made by the Assembly for Governments, organizations and individuals to contribute to UNRWA to meet their continuing needs.

5. In connection with paragraph 2 of General Assembly resolution 61/113, the Secretary-General has obtained from the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) the information available to her on the return of refugees registered with the Agency. As indicated in previous reports on the subject, the Agency is not involved in any arrangements for the return of refugees, nor is it involved in any arrangements for the return of displaced persons who are not registered as refugees. Its information is based on requests by returning registered refugees for transfer of their UNRWA registration records from Jordan, Lebanon or the Syrian Arab Republic to the areas to which they have returned. The Agency would not necessarily be aware of the return of any registered refugees who did not request the transfer of their registration records. So far as is known to the Agency, from 1 July 2006 to 30 June 2007, 2,220 refugees registered with UNRWA returned to the West Bank and 249 to the Gaza Strip from places outside the occupied Palestinian territory. It should be noted that some of these may not have been displaced in 1967 but may have been displaced in earlier or later years or may be members of the family of a displaced registered refugee. Thus, taking into account the estimate given in paragraph 3 of the previous report (A/61/358), the number of displaced registered refugees who are known by the Agency to have returned to the occupied territories since June 1967 is about 29,003. The Agency is unable to estimate the total number of displaced inhabitants who have returned. It keeps records only of registered refugees and, as noted above, even those records, particularly with respect to the location of registered refugees, may be incomplete.

6. In connection with paragraph 3 of General Assembly resolution 61/113, the Secretary-General refers to the report of the Commissioner-General of UNRWA for the period from 1 January to 31 December 2006[1] and to the previous reports of the Commissioner-General for accounts of the continuous and ongoing assistance provided by UNRWA to persons displaced and in need of continued assistance.

[1] *Official Records of the General Assembly, Sixty-second Session, Supplement No. 13* (A/62/13).

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Sixty-second session
Item 45 of the provisional agenda*
Report of the Economic and Social Council

Public administration and development

Report of the Secretary-General**

Summary

In response to the request of the General Assembly in its resolution 60/34 of 30 November 2005, and as a follow-up to the reports previously submitted by the Secretary-General in 2002, 2003, 2004 and 2006 (A/57/262-E/2002/82, A/58/152, A/59/346 and A/60/114), the Secretary-General provides an update on the implementation of resolution 60/34, in the present report. It is based on the analysis of the substantive work of the Committee of Experts on Public Administration and recent activities carried out by the Division for Public Administration and Development Management in the Department of Economic and Social Affairs. It incorporates the contributions of those United Nations bodies, from the governance and institution-building cluster of the Executive Committee on Economic and Social Affairs, that responded to a request for inputs. It also reports on the outcome of the seventh Global Forum on Reinventing Government.

* A/62/150.

** In view of the importance of the document, extensive consultations with various organizations and stakeholders were undertaken, resulting in delayed submission.

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I. Introduction

1. At its resumed fiftieth session, the General Assembly brought to the fore the importance of public administration in development and reaffirmed the role of the Secretariat in assisting Member States, at their request, in strengthening their public administrations. The General Assembly has mandated the Secretariat to undertake activities to assist Member States to build their administrative capacities since December 1948 (see resolution 246 (III)). During the resumed fiftieth session, the General Assembly also recommended that the Secretary-General take appropriate measures in order to ensure maximum coordination of the activities of the United Nations system in the field of public administration and development (resolution 50/225, para. 18). Subsequent to that session, the Secretary-General submitted a report on the implementation of resolution 50/225 (see A/53/173-E/1998/87).

2. Since then, the General Assembly reviewed developments in the field of public administration at its fifty-third and fifty-sixth to sixtieth sessions (see resolutions 53/201, 56/213, 57/277, 58/231, 59/55 and 60/34).

3. At its sixtieth session, the General Assembly emphasized that good governance and transparent and accountable public administration at the national and international levels would contribute to the achievement of the Millennium Development Goals (resolution 60/34, para. 2). The Assembly requested the Secretary-General to continue to facilitate, through the United Nations Online Network in Public Administration and Finance, the dissemination of information, knowledge and valuable practices in public administration (ibid., para. 8). It requested the Secretary-General to submit a report on the implementation of resolution 60/34 and the result of the seventh Global Forum on Reinventing Government (ibid., para. 14).

4. The present report builds on the earlier report presented at the sixtieth session on public administration reforms, implemented by Member States in the 10 years prior to that report (A/60/114). For that report, the Secretariat requested the Member States, United Nations regional commissions and regional public administration organizations to respond to questions about a variety of public administration revitalization measures. The report provided snapshots of reform and revitalization efforts within and across the world regions. Furthermore, the report highlighted the challenges confronting public administration systems as they implement different types of innovative and capacity-strengthening measures.

5. The present report is based on the analysis of the substantive work of the Committee of Experts on Public Administration and recent activities carried out by the Division for Public Administration and Development Management in the United Nations Department of Economic and Social Affairs. The Division is entrusted with implementing the United Nations Programme in Public Administration and Finance and is the focal point of the governance and institution-building cluster of the Executive Committee on Economic and Social Affairs. It also incorporates the contributions of the United Nations agencies that belong to this cluster. The cluster members were requested to identify, from their respective perspectives, the main factors in governance and public administration that facilitate the achievement of the Millennium Development Goals and other internationally agreed development goals. They were also asked to highlight the successful activities that their organizations have carried out in promoting or strengthening State capacities in

governance and public administration. The United Nations agencies that provided inputs to the present report include the Economic Commission for Africa (ECA), the Office of the Special Adviser on Africa, the United Nations Development Programme (UNDP), and the Office of the United Nations High Commissioner for Human Rights (OHCHR).[1]

II. Public administration, governance and development

6. At its resumed fiftieth session, the General Assembly recognized that "there is a need for public administration systems to be sound, efficient and well equipped with the appropriate capacities and capabilities ... which supports all phases of the development process as well as the promotion of opportunities for all to participate in all spheres of the public sector" (resolution 50/225, para. 7). The Assembly also recognized the importance of the major United Nations conferences and urged the development of the necessary capabilities to enable public administration to implement the commitments agreed upon in an effective and coordinated manner (ibid., para. 10).

7. Currently, the major development challenges for Member States are centred around the realization of the Millennium Development Goals by 2015. The United Nations Programme on Public Administration and Finance supports Member States in strengthening governance and public administration to reach these and other development commitments of the international community as well as those of individual Member States. With eight years remaining, many countries have progressed well, but others have been facing barriers to achieving the Millennium Development Goals. Notwithstanding the problems of resource constraints and an international trade regime that has not fully integrated all economies, many of the challenges of development also stem from weaknesses in public administration and governance systems and a lack of State capacity.[2]

8. Mandated to assist Member States with the challenges of these capacity deficits, the Department of Economic and Social Affairs, with the advice of the Committee of Experts on Public Administration, and other relevant United Nations agencies have been carrying out a number of activities. Bearing in mind the request of the General Assembly to the Secretary-General to ensure maximum coordination, the agencies have been in consultation, wherever possible, in supporting Member States with governance and public administration reforms. The Executive Committee on Economic and Social Affairs is one such coordination mechanism that allows for regular consultations. When consulted by the Department on identifying those main factors in governance and public administration that facilitate the achievement of the Millennium Development Goals and other internationally agreed development goals, the governance and institution-building cluster members

[1] In addition to the membership of the Executive Committee on Economic and Social Affairs cluster, there are many other organizations within and outside of the United Nations system, that work on promoting state capacities in governance and public administration. For example, the United Nations Human Settlements Programme (UN-HABITAT) has done extensive work on decentralization, local governance and service delivery. The World Bank has developed key governance indicators in addition to addressing State capacity in various sectors.

[2] *Governance for the Millennium Development Goals: Core Issues and Good Practices* (United Nations publication, Sales No. 07.II.H.2).

agreed on certain themes. They include: the respect for human rights and the rule of law and democracy; participatory governance and civil society engagement; civic engagement in public accountability, decentralization and local government capacity; professionalism and capacity of the civil service; policy development and coordination capacity in economic and social sectors; service delivery capacity and access; resource mobilization, public-private partnerships and financial management; improving efficiency and monitoring; integrity, transparency, accountability and internal and external controls; and the application of technology to government and knowledge management. The cluster members also submitted descriptions of their activities that address these themes. The activities have been summarized in section III below.

III. Selected activities of United Nations bodies[3]

9. Among United Nations bodies that promote respect for human rights, rule of law and democracy, notable are the activities of OHCHR. The Office works closely with Member States to promote compliance of national law, policies and practices with international standards on human rights and justice. It provides information and legal analysis, identifies where domestic laws fall short of established international standards, advises Member States on necessary legislative and policy reforms, and provides the methodological tools and training needed to build capacity at the country level. The Office established a Millennium Development Goals and Right to Development Unit, which, among others, is tasked with integrating development issues into the country engagement strategies of OHCHR.

10. In 2006, the Office published a handbook on *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*. In 2007, the Office circulated the "draft guiding principles on extreme poverty and human rights: the rights of the poor" to relevant organizations within and outside of the United Nations system. In addition, it published five "rule of law" learning tools, covering mapping of the justice sector, truth commissions, prosecution initiatives, vetting, and monitoring legal systems. Moreover, in its Plan of Action for 2005-2007, the Office identified democratic deficits as one of the main challenges to the effective realization of human rights. While emphasizing the centrality of democracy to the task of building a more secure and prosperous world, the Plan provided the ingredients for a strategic framework giving effect to democratic principles and redressing democratic deficits.

11. The Department of Economic and Social Affairs has been carrying out extensive work on participatory governance. In order to deepen its understanding on the emerging issues of governance and public administration, in 2007 the United Nations Committee of Experts on Public Administration, at its sixth session, focused on participatory governance. The discussion included elaboration of practices of participatory governance in policy development, service delivery and budgeting and public accountability. The Committee concluded that (i) civic engagement in public administration is being recognized as valuable, especially in the implementation of accountable and equitable public policies and programmes; (ii) a clear understanding of institutional, methodological and capacity-building issues of participatory governance is key to the success of such practices; and (iii) the

[3] The activities have been presented by themes that they address rather than by agency.

systematic gathering of information on participatory governance is important for South/South cooperation. The issues raised and lessons distilled have been presented in the report of the Committee,[4] in a policy brief that will be made available to Member States, and in the 2007 *World Public Sector Report* on the theme.

12. The work of UNDP on the public sector is based on the broader principles and institutions of democratic governance. The voices of youth, women, the poor and indigenous people are integrated into the UNDP multi-stakeholder approach. Development of local capacity for dialogue mobilizes greater broad-based support for reform than expert-led approaches. UNDP programmes promote participatory governance and the involvement of civil society in public administration reform, including legal and institutional reforms to enable transparency and full participation in government activities.

13. UNDP interventions on public sector reforms address all levels of governance, national, regional and local/community. In addressing decentralization and local government capacity, activities aim to achieve results with a programme of wage and incentive reforms, retrenchment, performance management systems, and streamlining and reorganization of core administrative and legal structures. Assistance is provided to increase the capacity of local government structures by creating linkages among local governance actors and increasing local administrative, fiscal, and planning skills. Decentralization of policy, income generation, and service delivery are supported through strengthening infrastructure and delivery mechanisms.

14. Promoting professionalism in and strengthening the capacity of the civil services of Member States has been a core activity of the United Nations Programme in Public Administration and Finance, currently implemented by the Department of Economic and Social Affairs. A good example of a promotional activity is the annual competition of the United Nations Public Service Awards. The Awards are the most prestigious international recognition of excellence in public service. They reward the creative achievements and contributions of public service institutions to a more effective and responsive public administration in countries worldwide. Winners of the United Nations Public Service Awards are celebrated every year at United Nations Headquarters on 23 June and awardees are invited to participate in the ceremony. Since the first Awards Ceremony in 2003, the United Nations has received an increasing number of submissions from around the world.

15. All public organizations and bodies at the national and subnational levels, as well as public/private partnerships and organizations performing outsourced public service functions, are eligible for nomination. The United Nations Public Service Awards take into consideration a geographical distribution of five regions. In order to level the playing field for nominations received from countries with varying levels of development and income, the following five regions have been established: Africa, Asia and the Pacific, Europe and North America, Latin America and the Caribbean, and Western Asia. Nominations have to be made by another entity than the institution being nominated, and self nominations are not accepted. Eligible nominators include government departments and agencies; universities, non-governmental organizations and professional associations among others. In

[4] *Official Records of the Economic and Social Council, 2007, Supplement No. 24* (E/2007/44-E.C/16/2007/6).

2007, the United Nations Public Service Awards were given in three categories: (i) improving transparency, accountability, and responsiveness in the public service; (ii) improving the delivery of services; and (iii) fostering participation in policymaking decisions through innovative mechanisms (e.g., utilizing information and communications technology (ICT), participatory budgeting, participatory/social auditing and monitoring, and others). See annex I for a list of 2007 winners and finalists.

16. In addition, the Department of Economic and Social Affairs has supported the development of two regional charters of public service. The Charter for the Public Service in Africa was adopted in 2001 (see A/56/63, annex II), and the Ibero-American Charter for the Public Service was adopted in 2003 (see A/58/193, annex II). The Charters are reference tools, including fundamental principles for public administration, for signatory countries to voluntarily conform their civil service laws, regulations, institutions and practices with their provisions.

17. The Office of the Special Adviser on Africa has been supporting policy development and strengthening coordination capacity in economic and social sectors in African countries. In line with its advocacy and analytical work in regard to the implementation of the New Partnership for Africa's Development (NEPAD), the Office monitors and reports on the implementation of the African Peer Review Mechanism. Africa continues to suffer more than its share of the hardships caused by violent conflict, poverty and disease. Moreover, the region lags behind the rest of the developing world in achieving the Millennium Development Goals. The Mechanism is a key element of NEPAD designed to address areas of governance in African countries. It is a mutually agreed upon instrument, voluntarily acceded to by the member states of the African Union, as an African self-monitoring, peer-review and peer-learning mechanism. The Mechanism is fundamental to the implementation of the NEPAD priorities of political, economic and corporate governance, a central element in strengthening Africa's ownership of NEPAD and a means of attracting support from development partners.

18. On enhancing service delivery capacity and access, UNDP works with partner Governments by carrying out functional reviews, policy recommendations and training. In order to target delivery to underserved groups, gender, HIV and human rights issues are a focal point for human resource development. UNDP best practices in this area include multi-donor partnerships for reform and are based upon a regional approach to engender a culture of cooperation and promote information-sharing for civil service integrity, regulatory reform, public service delivery, and governance of public finance.

19. In supporting member States with enhanced resource mobilization, private-public partnership and financial management, ECA provides support on political, economic and corporate governance, as well as on institutional-effectiveness issues. This is to help address the capacity deficits in governance institutions identified in the country governance reports contained in the *African Governance Report*.[5] Activities also include promotion and advocacy on public-private partnerships initiatives and dialogues in member States. It also analyses the impact of corruption on development (to serve as an advocacy tool) and organizes training programmes and workshops on corruption for relevant stakeholders including civil society

[5] United Nations publication, Sales No. 05.II.K.7.

organizations, policymakers, the judiciary, government officials, procurement institutions and schools. This enables the sharing of best practices and experiences from developed and developing countries and highlights the negative impact of corruption on the fight against poverty as well as the important role of an independent judiciary and of watchdog organizations. In this regard, ECA has created training modules on the Medium Term Expenditure Framework, targeting parliamentarians to enhance their monitoring role over budgeting processes. The modules were applied at subregional level during 2006.

20. When national institutions cannot provide efficient and effective performance in specific sectors, UNDP also works to foster public-private partnerships for better policy development and resource harmonization. The involvement of grass-roots supporters and media in the change process has shown to engender internal and external support. It also contributes pressure for reform and performs a monitoring function.

21. To support improving efficiency and monitoring, UNDP programming emphasizes reform of governmental processes and institutions to improve efficiency, financial accountability, and productivity to meet social and economic development needs. The introduction of new tools such as management information tracking systems has demonstrated improved delivery of health, education and welfare services, tax and customs administration, and more transparent management of technical assistance funds. The approach of UNDP includes training for capacity-building, review of government practices, and the development of monitoring systems to provide ongoing feedback on service provision and responsiveness, permitting evaluation against standards, guidance for reforms and comparison with peer service providers.

22. The Department of Economic and Social Affairs has been supporting various initiatives on integrity, transparency and accountability as well as internal and external controls. In 2006, the Department supported the United Nations Office on Drugs and Crime in drafting its technical guide to the United Nations Convention Against Corruption. The Convention is the first legally binding global instrument related to corruption. It broke new ground with its provisions on asset recovery and prevention. Given these innovations, the Convention devotes an important part to fostering international cooperation with specific measures such as extradition and mutual legal assistance. It also recognizes that the problem of corruption goes beyond criminal conduct and contains a broad range of measures for preventive action at the national level, calling for harmonizing cross-border anti-corruption measures. To assist Member States to institutionalize such preventive provisions, legislative and technical guides were prepared by the Office in consultation with other partners.

23. The application of ICTs for e-government is among the four core areas of focus for the Department of Economic and Social Affairs. The Department undertakes policy research and analysis on the use of ICTs in government, resulting in recurrent publications such as the *Compendium of Electronic/Mobile-Government Innovative Practices and Lessons Learned and the United Nations Global Electronic/Mobile-Government Readiness Report*. It also publishes specialized reports such as *Understanding Knowledge Societies*,[6] which came out in 2005. In

[6] United Nations publication, Sales No. E.04.II.C.1.

addition to its analytical work in the area, the Department also engages in technical cooperation projects such as the Global Centre for ICT in Parliament and various e-government development projects in Belize, Jamaica, Lesotho, Morocco, Saint Lucia and Saint Vincent and the Grenadines.

24. In addition to advising Member States, the Department itself has applied ICTs to its extensive global network of partners which comprise the United Nations Online Network in Public Administration and Finance (UNPAN). The electronic manifestation of this network is found at www.unpan.org portal. UNPAN is currently being updated to respond to the specific needs and requirements of the portal's clients. After completion, the existing framework will be replaced with an improved navigation scheme and its functionality will be enriched by providing better tools to access information, through more interactive features for the users' dialogue and through easier management tools for the contributors. The portal has a high degree of visibility, as it registers one of the highest numbers of visitors from among the Department's websites.

25. In addition to the selected activities mentioned, the Department supports the Global Forum on Reinventing Government. The Global Forum is the largest global level conference on governance and public administration, supported by the United Nations. The General Assembly, in its resolution 57/277, asked the United Nations Secretariat to provide support to the Global Forum. As requested by the General Assembly, the outcomes of the seventh Global Forum held in June 2007 are reported in section IV below.

IV. Report of the seventh Global Forum on Reinventing Government

26. The seventh Global Forum on Reinventing Government, hosted by the United Nations in partnership with the Government of Austria, took place at the United Nations Office at Vienna from 26 to 29 June 2007 on the theme of "Building trust in Government".

27. Building trust in Government is at the core of the world's quest for peace and well-being. Good governance and effective public administration are recognized as key ingredients to promote trust in Government and are increasingly receiving support from the international community as the foundation for the successful achievement of a wide range of international and domestic policy objectives, including items on the international development agenda. As the basis for effective policy selection and implementation, good governance is a necessary condition to achieve the Millennium Development Goals. In view of this, the report of the Millennium Project to the Secretary-General, *Investing in Development: A Practical Plan to Achieve the Millennium Development Goals*, made a strong case for investing in governance, including public administration.

28. As a part of the preparatory activities for the seventh Global Forum, the Department of Economic and Social Affairs, in cooperation with development partners, organized eight regional forums on reinventing Government. These forums took place in Nadi, Fiji, for the Pacific Islands; Seoul, for Asia; Addis Ababa, for Africa; Brasilia, for Latin America and the Caribbean; St. Petersburg, Russian Federation, for Eastern Europe and the countries of the Commonwealth of

Independent States; Rome, for Western Europe; Bridgetown, for the Caribbean region; and Dubai, United Arab Emirates, for the Arab States region. Conclusions and recommendations from the regional forums were presented in Vienna.

29. The seventh Global Forum promoted the governance and public administration agenda in many ways. It offered seven plenary sessions and seven parallel capacity-development workshops on different aspects of revitalizing governance and public administration to build trust in Government. It provided a forum for senior government officials and representatives of civil society and the private sector to discuss key issues in strengthening sound governance and public administration to promote trust in Government and implement the Millennium Development Goals; introduce various countries' experiences in government reinvention and seek a framework and strategy for future innovations in governance and public administration; and promote cooperation among Government, the private sector and civil society organizations to improve the quality of governance at national and local levels.

30. About 2,000 persons from 160 countries participated in the Forum, including ministers, senior government officials, parliamentarians, mayors, civil society representatives, and the private sector. The Deputy Secretary-General represented the United Nations.

31. The Forum was organized as part of a United Nations system-wide partnership, led by the Department of Economic and Social Affairs. World-renowned speakers presented approaches and innovations to build trust in Government by reforming the public sector, prioritizing service delivery and access, securing legitimacy of government and improving access to ICTs. Furthermore, they discussed issues in support of effective civil society engagement, bringing Government closer to people, promoting public and private sector partnerships and engaging the constructive interest of a free media.

32. While the United Nations organized the plenary sessions, the capacity-development workshops were organized by the Institutional Partners Group, composed of entities and programmes from the United Nations system as well as external organizations. The Institutional Partners Group of the seventh Global Forum included: the Department of Economic and Social Affairs; UNDP; the United Nations Human Settlements Programme (UN-Habitat); the United Nations Office on Drugs and Crime; the World Bank; the Ministry of Government Administration and Home Affairs of the Republic of Korea; the Ministry of Public Administration of Italy; the Community Engagement Alliance of the State Government of Queensland, Australia; Kyung Hee University, Republic of Korea; the International Budget Project; the Africa Governance Institute; the Ash Institute for Democratic Governance and Innovation of the Kennedy School of Government of Harvard University; the Formez Study and Training Center; the Inter-Parliamentary Union (IPU); the International Institute for Democracy and Electoral Assistance; the International Organization of Supreme Audit Institutions; the Organization for Economic Cooperation and Development; Transparency International; and the World Alliance for Citizen Participation.

33. Seven parallel capacity-development workshops enabled selected institutions to share tools and methodologies to improve governance and enhance trust in Government. These workshops also enabled senior government officials to share their innovations, good practices and constraints in designing and implementing

governance reform programmes. The Global Forum website serves as a global resource available to the Member States. The Department of Economic and Social Affairs prepared a six-volume *Government Reinvention Series*, which was posted on the website. The series was also launched at the Global Forum. The United Nations Public Service Day was celebrated during the Forum. The United Nations Deputy Secretary-General awarded the 2007 United Nations Public Service Awards to 16 winners.

34. The participants benefited from keynote presentations by 35 world-known speakers, including former heads of State and internationally recognized experts. Plenary speakers presented approaches and innovations to build trust in Government by reforming the public sector, prioritizing service delivery and access, securing legitimacy of Government and improving access to ICT.

35. Taking advantage of the Global Forum, special meetings were organized before the Forum. While the Global Forum brought together specific governance actors, special meetings focused on different governance actors to discuss their specific roles in good governance and public administration reforms. The special meetings included a ministerial round table, a mayoral forum, a round table of parliamentarians organized by IPU; a meeting of the heads of public administration institutes, a meeting of UNPAN and a session of the Network of Innovators in Governance in the Mediterranean Region.

36. The Vienna declaration on building trust in Government that resulted from the Forum is reproduced in annex II to the present report.

V. Conclusions

37. Upon the request of the General Assembly, the present report has focused on the implementation of resolution 60/34. In doing so, the report highlighted the activities that United Nations agencies have carried out in supporting Member States to address those main factors in public administration and governance that facilitate the achievement of the Millennium Development Goals and other international development commitments. It also reported on the outcome of the seventh Global Forum on Reinventing Government.

38. The United Nations Programme in Public Administration and Finance was conceived to support Member States in dealing with public administration challenges in development. As the Programme will celebrate its sixtieth anniversary in 2008, the present report can foreshadow some reflections on the Programme's contributions to the development of the study of and practices in public administration in development.

39. It can be argued that public administration has grown beyond a technocratic exercise of delegated powers and management of public resources to coordination and management of shared visions in public governance. It now includes the facilitation of participation of all social groups and their fair representation and reconciliation of interests. Member States have responded to this trend to also include new structures and processes in their public administrations to take on new functions and accommodate new actors that come with such an expansion. The United Nations Programme in Public Administration and Finance has also been responsive to the developing needs of Member States by supporting standard-setting

(e.g., the Charters for the Public Service in Africa and in Ibero-America), by undertaking policy and programme analyses in areas of historical concerns (such as post-conflict reconstruction) and new areas (e.g., participatory governance), and by carrying out technical cooperation in emerging areas (e.g., the application of ICTs in government and knowledge management).

40. The developments in the Programme have been constantly influenced by international global trends and vice versa. At the same time, the Programme has been a steady reminder of the invaluable role of the State in economic and social development. It has supported a global network of public administration scholars and practitioners as they went about their work. The current form of this network is the UNPAN portal, both as a partnership of institutions worldwide and an electronic hub of information provided by them. The Global Forum on Reinventing Government serves as a global venue where members of the network and sub-networks can come together to discuss their latest concerns. The United Nations Public Service Awards are recognitions of excellence and innovations in the field.

41. Although no one institution can take credit for the developments in public administration at the global level, the Programme has played a vital role. It was one of the earliest United Nations creations to support Member States in improving their Governments and administrations.

42. Public administration and governance measures can contribute towards more efficient and effective actions to eradicate poverty and hunger, ensure universal primary education, empower women, combat HIV/AIDS and other infectious diseases, reduce child mortality, improve maternal health and ensure environmental sustainability. High rates of economic growth and fair distribution of public resources to the poor are necessary to the timely attainment of the Millennium Development Goals. But that attainment is more likely with the strengthening of the rule of law, civil society engagement, effective decentralization, strengthened policy coordination and service delivery capacity, professionalism in the public service at all levels, innovative resource mobilization and management, more transparency and accountability and the strategic harnessing of ICTs for government in a knowledge society.

43. **In today's world, a challenge for many Governments, particularly those of developing countries, is to benefit from the global pool of knowledge in implementing the international community's development commitments. The United Nations has a key role to play in continuing to assist Member States to meet the public administration and governance challenges in development. The Secretariat will continue to provide intellectual and practical support towards reaching international consensus on governance and public administration. It will contribute towards strengthening the international network of governance and public administration actors in sharing knowledge and disseminating good practices electronically through UNPAN and through regular meetings. And it will provide specialized technical assistance to Member States, upon request, through strengthened partnerships for tackling specific challenges. Bearing these activities in mind, the priorities for the Secretariat during the next few years include:**

(a) **The continuous analysis of governance and public administration factors which affect and promote economic and social development;**

(b) **The collection, analysis and dissemination of successful practices in governance and public administration in the achievement of the Millennium Development Goals and other international development commitments through expanding the reach and scope of UNPAN;**

(c) **The coordination among agencies within and outside of the United Nations system, through existing coordination mechanisms and cooperative arrangements, to maximize the impact of their activities;**

(d) **The use of the United Nations Public Service Awards competition to highlight those governance and public administration innovations, instrumental to implementing the international development agenda;**

(e) **The commemoration of the sixtieth anniversary of the United Nations Programme in Public Administration and Finance through recognizing its contribution to development. In this connection, the General Assembly may wish to organize a substantive panel in 2008 to highlight the importance of governance and public administration in development and to underline its involvement in guiding the Programme during the past 60 years.**

Annex I

2007 United Nations Public Service Awards
Winners and finalists

Category 1 **Improving transparency, accountability, and responsiveness in the public service**			
Region	*Status*	*Country*	*Institution*
Africa	**Winner**	**Kenya**	**Performance Contracts Steering Committee Secretariat** **For "Performance Contracts"**
	Finalist	Morocco	Ministère de la Modernisation des Secteurs Publics (patrimoine-pôle de développement durable) For "Portail administratif service-public.ma"
Asia	**Winner**	**Singapore**	**Ministry of Finance, Ministry of Manpower and Central Provident Fund Board, Singapore** **For "Progress Package"**
	Winner	**India**	**Information Technology and Communications Department, Government of Andhra Pradesh** **For "e-Procurement Project"**
	Finalist	Singapore	Pro-Enterprise Panel
	Finalist	Republic of Korea	Korea Agency for Digital Opportunity and Promotion
Europe	**Winner**	**Austria**	**Federal Chancellery of Austria** **For "Electronic law-making processes (e-Law)"**
	Finalist	Austria	Amt der OÖ. Landesregierung
	Finalist	Slovenia	Ministry of Public Administration For "One stop shop for sole traders (e-VEM)"
Latin America and the Caribbean	**Winner**	**Chile**	**Dirección de Compras y Contratación Pública**
Western Asia	**Winner**	**Azerbaijan**	**The State Oil Fund of Azerbaijan** **For "Extractive Industries Transparency Initiative"**
North America and the Pacific	**Winner**	**Australia**	**Australian Public Service Commission** **For "State of the Service Report"**

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Category 2 Improving the delivery of services			
Region	*Status*	*Country*	*Institution*
Africa	**Winner**	**South Africa**	**e'Thekwini Municipality For "e'Thekwini Water & Sanitation Debt Relief Programme"**
	Winner	**Morocco**	**Arrondissement Agdal, Fez, Morocco For "Fez eGovernment project"**
	Finalist	South Africa	e'Thekwini Municipality For "The Hammarsdale Sustainability Project"
	Finalist	South Africa	e'Thekwini Municipality For "Mariannhill Landfill Conservancy"
Asia	**Winner**	**Republic of Korea**	**Ministry of Justice For "Korea Immigration Smart Service (KISS)"**
	Finalist	Singapore	Singapore Health Promotion Board For "Excellence in Workplace Health-a health initiative"
	Finalist	Republic of Korea	Human Resources Development Service of Korea For "National Technical Qualification Testing and Certification"
Western Asia	**Winner**	**United Arab Emirates**	**Dubai Government Excellence Department For "Dubai Government Excellence Programme"**
	Winner	**Lebanon**	**Lebanese Ministry of Finance For "Taxpayer Service"**

Category 3 Fostering participation in policy-making decisions through innovative mechanisms			
Region	*Status*	*Country*	*Institution*
Europe	**Winner**	**Switzerland**	**Statistical Office Canton Zurich, Ministry of Justice and Interior For "e-Government Project (e-voting)"**
	Finalist	Switzerland	State of Geneva For "Internet voting (e-voting)"
	Finalist	Italy	Regione Emilia-Romagna For "Partecipa.net"
North America and the Pacific	**Winner**	**Canada**	**Tli Cho Community Services Agency**

Annex II

Vienna declaration on building trust in Government, adopted at the seventh Global Forum on Reinventing Government, held at the United Nations Office at Vienna, from 26 to 29 June 2007

Preamble

1. The seventh Global Forum on Reinventing Government, organized by the United Nations with the support of the Government of Austria and the Institutional Partners Group, brought together ministers, senior government officials, mayors, civil society organizations, and representatives from the private sector, academia and international organizations to exchange good practices, innovations, and strategies that improve governance and build trust in Government. During the Forum, distinguished speakers and panellists presented their experiences and perspectives during seven plenary sessions and seven capacity-development workshops. Six special meetings of parliamentarians, mayors, directors of public administration institutes, election commissioners, and public administration networks were further held the day prior to the Forum. In preparation, eight regional forums on reinventing Government were also held from January 2006 to May 2007, the conclusions and recommendations of which were presented at the seventh Global Forum.

2. We, the participants of the seventh Global Forum on Reinventing Government, held in Vienna, Austria, from 26 to 29 June 2007 on the theme of "Building trust in Government", convey our gratitude to Secretary-General Ban Ki-moon for the successful preparation of the Forum by the United Nations Secretariat. We appreciate the contribution and hospitality of the Government of Austria. We are also grateful to the Governments of France, Italy and the Republic of Korea for their support in the organization of the Forum. We further reiterate our deepest appreciation to members of the Institutional Partners Group for their organization of the capacity-development workshops.

3. Today, building trust in Government is a worldwide concern. When people do not see themselves and their interests represented by their political leaders and their Government, trust is compromised and the general public interest is undermined. When citizens' expectations are not satisfied with how the State operates and what it delivers, a dissonance may result which can be heightened in the context of globalization. This leads to distrust and apathy.

4. Acknowledging the outcomes of the eight preparatory regional forums on reinventing Government, we recognize that there is no one single recipe to build trust in Government. Instead, a comprehensive approach needs to be adopted. While the principles of democratic governance such as transparency, accountability and citizens' engagement are universal, there are different ways of accomplishing them.

5. Cognizant of the fact that women constitute more than 50 per cent of the population and recognizing the critical role that they play in all spheres of life, we urge that women's concerns be central in the overall implementation of the recommendations contained in the present declaration.

6. Therefore, we, the participants of the seventh Global Forum on Reinventing Government, draw attention to the present declaration. (The text of the declaration has not been negotiated with all participants and thus does not have any legal standing or generate political commitment on the part of the participants.)

Recommendations: ways to build trust in Government

1. Secure legitimacy of Government

7. To strengthen the confidence of citizens in their Governments, the State must be and be seen to be legitimate, fair and institutionally strong. Legitimacy derives from the respect and adherence to fundamental human rights and the constitution, including the separation of powers between the executive and legislative branches of Government and the independence of the judiciary. Elections confer and sustain political legitimacy when they symbolize and reflect the overall choice of the people. Therefore, we agree that Governments must continue their efforts to implement free, fair and regular elections. The rule of law must be observed and safeguarded. We stress the importance of a constructive relationship between parliament and the executive for the building of trust. However, legitimacy also derives from a shared understanding of the role and functions of the State, and the respective roles of different socio-economic actors.

2. Prioritize service delivery and access

8. Public sector performance creates trust in Government by delivering "public value" via reliable public services that not only address market failures, but produce value by creating equity, equality and social capital. Trust in Government depends in part upon the degree to which Governments can ensure that citizens receive consistent and responsive access to the basic services upon which they depend. Locally provided services often constitute the first contact that citizens have with governmental processes. This influences not only citizens' view of the responsiveness of Government, but also their perceptions of the value of local participation in the governing of their communities. We therefore recommend that Governments make it a priority to improve service access and delivery. This is particularly important to marginalized groups. Moreover, we recommend that public services adopt a customer service focus, aimed at improving the responsiveness and the quality of public services. Citizen feedback and active participation should be incorporated into governance processes.

3. Increase transparency and accountability to combat corruption

9. We recognize that corruption is one of the greatest challenges facing the world. Corruption involving officials from the private and public sectors is a grave and corrosive abuse of power. In order for citizens to have confidence in Government, civil servants, elected officials and other stakeholders must conduct themselves according to the highest ethical standards and in compliance with the law. We therefore recommend strict adherence to the United Nations Convention against Corruption, in addition to the adoption and implementation of national legislative and administrative measures. We further recommend strengthening the transparency of policy processes, ensuring the right to information, improving enforcement mechanisms, increasing public awareness and strengthening anti-corruption

institutions. We also recommend an active role of civil society organizations in policy assessment and anti-corruption initiatives.

4. Improve access to information and communications technologies

10. E-government has tremendous potential to improve transparency, foster greater citizen engagement and participation in the policy process, and improve the quality of policy decisions and their implementation. Moreover, effective knowledge management can help to improve public service capacities, by enabling better coordination with the public sector and between governmental agencies, improving efficiency, permitting improvements in service delivery, enabling better response time to citizens, and strengthening the effectiveness of e-government initiatives. In the face of rapidly changing technological developments, there is a serious risk of a digital divide, both within and between countries. We encourage the support of the international donor community for programmes which improve the access of developing countries to ICT-related infrastructure, education, and training. We further stress that Governments must take a leadership role in protecting data security and safeguarding privacy, through example and by regulation, to improve trust in the online environment.

5. Support effective civil society engagement

11. Civil society must be empowered to participate as a full partner in governance in order for trust to thrive in government institutions. Meaningful dialogue and regular face-to-face involvement in civil society organizations are the most direct and effective ways of building trust and trusting communities. Civil society promotes trust in Government, because it presents itself as a field of constant interaction between State and society. Governments should allow sufficient political space for civil society to play its role and thereby help to build social and political trust. We recommend the modernization of legislation governing civil society activities, increased participation of women in economic activities and political decision-making, greater public involvement in the planning and management of public sector activities, and encourage open dialogue and communication.

6. Engage the constructive interest of a free media

12. Because a vital part of maintaining trust depends on public perceptions, true or false, the role of the media in creating these perceptions has greatly increased with the information revolution. Governments have responded by devoting more resources and ministerial time in relating to the media. But in many situations much more could and should be done to draw the positive attention of the media on what works. Securing legitimacy requires the existence of a free and responsible media to enable greater participation in policy solutions by all citizens.

7. Bring Government closer to people

13. Local governance is one of the most effective ways of bridging the gaps between citizens, political representatives, and public administrators. By ensuring that policy processes are informed by and in touch with the citizens, decentralization helps to anchor democratic governance by strengthening the legitimacy of the State, the notion of citizenship, citizen empowerment, and public service. We therefore re-emphasize the need to recognize subnational levels of government as the closest

public authority to people and to empower them to function as effective conduits between people and Government. To bring Government closer to people, we recommend the strengthening of regional and local governments by transferring powers and resources, deconcentrating administration, developing methods of local accountability, and institutionalizing local participatory processes.

8. Enable public-private partnerships

14. Effective public-private partnerships can improve the design and implementation of development programmes by capitalizing on the respective strengths and resources of each partner. To ensure that these work to strengthen trust, comprehensive governance agreements are needed which detail the priorities and responsibilities of each partner, while acknowledging social costs and benefits. We agree that public-private partnerships must be subject to expert public oversight.

9. Promote innovations in public sector reform

15. We recognize that the ability of Governments to earn the trust of their populations depends on the degree to which they are able to strengthen State capacities. That means, for example, strengthening the accountability for results by guaranteeing adequate competencies for both raising and allocating revenues. To facilitate this process, we recommend that Governments employ incentive-based strategies which reward public sector employees who successfully introduce innovations that improve public service. Innovation should focus on enhancing public value. We further stress the importance of leadership for instilling public sector ethics, ensuring full participation of women in senior public sector positions, reinforcing shared values, and motivating staff. Human resource management and training is a critical factor in strengthening State capacities.

10. Rebuild trust in crisis and post-conflict countries

16. The interplay of social and political trust is even more crucial for crisis and post-conflict countries. Post-conflict societies are characterized by sweeping policy changes and an intensive institution-building process. Legal frameworks must be reformed, former combatants rehabilitated and civic education promoted. It is evident that women's contribution to community development is particularly important in these circumstances. Therefore, social and legal barriers to women's participation must be removed. This is also important for people with disabilities. Security sector reform, justice and reconciliation, constitution making, and conflict prevention through redistributive justice need to occur simultaneously and in harmony with one another. While setting up new institutions is extremely demanding, it is even more difficult for them to achieve legitimacy and to function effectively. Within this context, we emphasize that international assistance organizations should tailor their support to the specific needs of each post-conflict country. Support should be granted at each stage of the transition process and should involve all key stakeholders.

Follow-up measures

17. We urge international development partners, including bilateral donors and the United Nations, to increase support to developing countries to strengthen their capacity in public administration and governance.

18. We also urge concrete follow-up to the seventh Global Forum. In particular, we recommend, inter alia, that the following measures be taken:

(a) Support a global network of innovators to share ideas and experiences, and act as an observatory;

(b) Support regional and global level governance centres to document and share good ideas;

(c) Support regional forums to formulate regional cooperation strategies to improve public administration and governance;

(d) Promote North-South and South-South cooperation and dialogue;

(e) Encourage country anchored pilot projects to test alternative methodologies and approaches to promote and strengthen effective and democratic governance;

(f) Focus at least one category of the United Nations Public Service Awards on projects which contribute to strengthening citizens' trust in Government;

(g) Commission concept papers to develop a framework of principles to underpin trust in Government.

19. In addition and in parallel to the global network of innovators, we also urge the organization of ministerial round tables to meet periodically to review their experiences in dealing with selected issues of trust, and make recommendations. We also recommend similar meetings at regional and national levels for local administrators. Finally, round tables of parliamentarians are also recommended to share innovative practices and institutional designs.

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Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Security Council
Sixty-second year

Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly and to the members of the Security Council the twelfth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, submitted by the President of the International Tribunal for Rwanda in accordance with article 32 of its statute (see Security Council resolution 955 (1994), annex), which states:

> "The President of the International Tribunal for Rwanda shall submit an annual report of the International Tribunal for Rwanda to the Security Council and to the General Assembly."

* A/62/150.

07-48729 (E) 190907

Letter of transmittal

15 August 2007

I have the honour to submit the twelfth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 dated 15 August 2007 to the General Assembly and the Security Council, pursuant to article 32 of the statute of the International Tribunal.

The President
(Signed) Charles Michael Dennis **Byron**

Twelfth annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Summary

The present annual report outlines the activities of the International Criminal Tribunal for Rwanda for the period from 1 July 2006 to 30 June 2007.

In addition to judicial matters falling within the ambit of the President's powers, the Office of the President continued its action in view of the completion strategy of the Tribunal during the reporting period. A revised completion strategy report was submitted to the Security Council on 24 May 2007 in conformity with Security Council resolution 1534 (2004).

During the reporting period, the three Trial Chambers of the Tribunal rendered five judgements in cases involving five accused persons (*Jean Mpambara, Tharcisse Muvunyi, Joseph Nzabirinda, Athanase Seromba* and *André Rwamakuba*). Two other trials involving five accused have been completed and await judgements (*Theoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze and Anatole Nsengiyumva* and *François Karera*). One case has been transferred to the Kingdom of The Netherlands. A new trial concerning one accused commenced in June 2007. In addition to the 27 cases involving 33 accused that have been completed in first instance, trials involving 22 accused in 9 different cases are in progress. Eight detainees are awaiting trial.

The Appeals Chamber rendered 4 appeal judgements in respect to 6 persons (*André Ntagerura, Emmanuel Bagambiki, Samuel Imanishimwe, Sylvestre Gacumbitsi, Emmanuel Ndindabahizi* and *Mika Muhimana*), 9 interlocutory decisions, 8 decisions on review or reconsideration, 1 decision on a referral appeal, and 96 pre-appeal orders and decisions.

The prosecutor has continued to focus his efforts on securing the arrest of the remaining fugitives. The prosecutor has handed over 30 case files for prosecution before Rwandan national courts. He also entered into negotiations with States for the transfer of approximately 15 cases from the Tribunal to national jurisdictions.

The Registry continued to play a crucial role in the provision of administrative and judicial support to the Tribunal. It played an instrumental role in ensuring the cooperation and assistance of Member States with the Tribunal. The Outreach Programme of the Registry conducted a diverse range of activities both in Arusha and in Rwanda. The Court Management Section supported 15 trials during the reporting period and maintained all relevant documentation. The Defence Counsel and Management Section continued to offer support to defence teams of indigent accused persons or suspects. The Witnesses and Victims Support Section assisted 280

witnesses and continued its work in the relocation of protected witnesses. The Press and Public Affairs Unit and the Legal Library and Reference Section continued to contribute to the large promotion of the Tribunal's work as well as to the capacity-building of Rwanda.

During the reporting period, Rwanda has continued to cooperate with the Tribunal by facilitating the flow of witnesses from Kigali to Arusha and by providing relevant documents to court proceedings.

To date, the Tribunal has concluded proceedings against 33 accused persons. The present report illustrates the Tribunal's absolute commitment to meeting the completion strategy targets while ensuring the respect of due process. It must, however, be stressed that the success of the completion strategy will continue to depend on the assistance and cooperation of States. Sufficient resources must be provided to the Tribunal to complete its work. Member States are also requested to accept the transfer of cases in order to further investigations and trials. Their assistance in the arrest of the indictees still at large, as well as in the relocation of acquitted persons, is also vital to the Tribunal's successful completion of its work.

Introduction

1. The twelfth annual report is submitted to the General Assembly and Security Council by the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, pursuant to article 32 of the Tribunal's statute. It outlines the activities of the Tribunal for the period from 1 July 2006 to 30 June 2007.

2. During the reporting period, the Tribunal, through the Office of the President, the Chambers, the Office of the Prosecutor and the Registry, continued to focus on the implementation of its completion strategy endorsed by the Security Council in its resolution 1503 (2003).

I. Activities of the Tribunal

A. Activity of the President

3. During the reporting period until 29 May 2007, Judge Erik Møse (Norway) served as President of the Tribunal and Judge Arlette Ramaroson (Madagascar) as Vice-President. On 21 May 2007, Judge Charles Michael Dennis Byron (Saint Kitts and Nevis) was elected as President of the Tribunal. Judge Khalida Rachid Khan (Pakistan) was elected Vice-President at the same time.

1. Judicial activity

4. During the reporting period, the President issued several orders assigning cases to Chambers; reviewed a decision by the Registrar denying a request for withdrawal of Co-Counsel; issued three orders for the continued detention of one accused at the Detention Unit of the International Criminal Tribunal for the Former Yugoslavia, at The Hague, The Netherlands; ruled on restrictive measures imposed upon a convicted person detained at the Detention Unit of the Tribunal in Arusha.

5. The President also assigned a referral Bench under rule 11bis of the Rules of Procedure and Evidence to decide on the transfer of Michel Bagaragaza to a State, but denied a Defence Motion seeking the assignment of a referral Bench in the case of *Édouard Karemera, Mathieu Ngirumpatse and Joseph Nzirorera*.

2. Completion strategy

6. During the reporting period, the President continued to review and update, in consultation with the Prosecutor, the Tribunal's completion strategy. On 24 May 2007, this document was submitted by President Møse to the Security Council. On 18 June 2007, the newly elected President, Judge Dennis Byron, and the Prosecutor presented their most recent assessment of the implementation of the completion strategy to the Security Council. The assessment included initiatives associated with the management of information and evidence by the Office of the Prosecutor, as well as the Registry's support to the efficient management of trials.

3. Diplomatic relations and other representation

7. Until the expiration of his mandate at the end of May 2007, President Møse continued to be in regular contact with United Nations Headquarters and the diplomatic community, in connection with his addresses to the General Assembly and the Security Council in October and December 2006, respectively, as well as during visits by state representatives in Arusha.

8. During his travel to Headquarters in New York in June 2007, President Byron also engaged in cooperation and outreach activities to secure support for the Tribunal's work.

9. Between 18 and 22 June 2007, President Byron met with 13 representatives of States and Ambassadors to the United Nations. He also met the Secretary-General, Ban Ki-moon, and the Deputy Secretary-General, Asha-Rose Migiro, as well as several heads of key departments at Headquarters. These meetings offered the opportunity to inform, in greater detail, these bodies and representatives on the progress and challenges in the completion of the Tribunal's work as well as to capture their views and concerns as the Tribunal moves towards the end of its activities.

B. Activity of Chambers

1. Composition of the Chambers

10. The Chambers are composed of 16 permanent judges and 9 ad litem judges. Nine permanent judges are members of the three Trial Chambers, while seven permanent judges are members of the Appeals Chamber, five of whom sit at any one time.

11. Trial Chamber I is composed of: Judges Erik Møse (Norway), Jai Ram Reddy (Fiji) and Sergei Alekseevich Egorov (Russian Federation), permanent judges. Judge Florence Rita Arrey, ad litem Judge in Trial Chamber III, also serves in Trial Chamber I.

12. Trial Chamber II is composed of: Judges William H. Sekule (United Republic of Tanzania), Arlette Ramaroson (Madagascar) and Asoka J. N. de Silva (Sri Lanka), permanent judges; Judges Solomy Balungi Bossa (Uganda), Lee Gacuiga Muthoga (Kenya), Emile Francis Short (Ghana), Taghrid Hikmet (Jordan) and Seon Ki Park (Republic of Korea), ad litem judges. In addition, Judge Khalida Rashid Khan, a permanent judge in Trial Chamber III, serves in Trial Chamber II for the *Bizimungu et al.* case.

13. Trial Chamber III is composed of: Judges Dennis C. M. Byron (Saint Kitts and Nevis), Khalida Rashid Khan (Pakistan) and Inés Mónica Weinberg de Roca (Argentina), permanent Judges; Judges Florence Rita Arrey (Cameroon), Gberdao Gustave Kam (Burkina Faso), Robert Fremr (Czech Republic) and Vagn Joensen (Denmark), ad litem judges. Judges Lee Gacuiga Muthoga and Emile Francis Short, ad litem judges in Trial Chamber II, also serve in Trial Chamber III. In addition, Judge Karin Hökborg (Sweden), an ad litem judge in Trial Chamber III, served in the *Seromba* and *Rwamakuba* cases, which was completed at the end of 2006.

14. The Appeals Chamber is composed of: Judges Fausto Pocar (Italy), Mohamed Shahabuddeen (Guyana), Mehmet Güney (Turkey), Liu Daqun (China), Andrésia

Vaz (Senegal), Theodor Meron (United States of America) and Wolfgang Schomburg (Germany).

2. Principal activity of the Trial Chambers and the Appeals Chamber

1. Trial Chamber I

15. During the reporting period, Trial Chamber I rendered one judgement, concluded one large multi-accused case and one single-accused case, heard evidence in two ongoing trials and attended to pre-trial matters in several additional cases.

The Prosecutor v. Jean Mpambara

16. On 12 September 2006, Jean Mpambara, a former *bourgmestre* of Rukara commune in northeastern Rwanda, was acquitted of all charges against him. Mpambara was charged with genocide and extermination for his alleged involvement in attacks at three locations in his commune by aiding and abetting and participating in a joint criminal enterprise. The Chamber found that the evidence did not prove beyond a reasonable doubt that he ever instigated or positively assisted the attackers. In fact, the Chamber found significant evidence suggesting that Mpambara had made efforts to prevent violence and that his resources were limited. This trial concluded on 3 May 2006, after 28 trial days.

The Prosecutor v. Theoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze and Anatole Nsengiyumva ("*Military I* case")

17. On 18 January 2007, the defence case concluded in the *Military I* trial, involving four former high-ranking military officials. They are jointly charged with genocide, crimes against humanity, and serious violations of the Geneva Conventions and Additional Protocol II. Closing arguments were heard between 28 May and 1 June 2007. The trial concluded after 408 trial days, during which time 242 witnesses testified, 1,584 exhibits were tendered into evidence; and more than 300 written judicial decisions were issued. The *Military I* case is one of the five remaining multi-accused trials at the Tribunal. The conclusion of this trial is an important step in the Tribunal's completion strategy.

The Prosecutor v. François Karera

18. The trial of François Karera, a former prefect of Kigali-Rural, commenced on 9 January 2006 and concluded on 24 November 2006. The Chamber heard a total of 43 witnesses, including the accused, over 33 trial days, 15 of which were half days. Judgement is expected shortly.

The Prosecutor v. Tharcisse Renzaho

19. On 8 January 2007, the trial of Tharcisse Renzaho, a former prefect of Kigali-ville, commenced. The prosecution case closed on 7 February 2007, after having presented 23 witnesses over the course of 18 trial days. The defence is currently presenting its evidence and is expected to conclude its case in early September 2007.

The Prosecutor v. Hormisdas Nsengimana

20. The trial of Abbot Hormisdas Nsengimana, a Catholic priest, commenced on 22 June 2007. Nsengimana, who is accused of genocide and crimes against humanity, was formerly a Rector of Christ-Roi College in Nyanza, Nyabisindu commune in Butare prefecture.

Pre-trial matters

21. The Chamber held numerous status conferences and attended to pre-trial matters in six other cases, as well as having confirmed some other indictments. The Chamber also issued a warrant of arrest and order for the transfer of a former prosecution witness before the Tribunal in a case of alleged false testimony and contempt of court.

2. Trial Chamber II

22. During the reporting period, Trial Chamber II issued 2 judgements, conducted trials in 6 cases involving a total of 18 accused and attended to pre-trial matters in 5 single-accused cases.

The Prosecutor v. Tharcisse Muvunyi

23. On 12 September 2006, the Chamber rendered its judgement in this case. Tharcisse Muvunyi, a Lieutenant-Colonel stationed at the École des sous-officiers in Butare, was convicted of genocide, direct and public incitement to commit genocide, and other inhumane acts. He was acquitted on the charge of rape as a crime against humanity. The case is currently on appeal.

The Prosecutor v. Joseph Nzabirinda

24. On 14 December 2006, Joseph Nzabirinda, a former employee of Ngoma commune in Butare working as *encadreur* of youths, pleaded guilty to aiding and abetting murder, a crime against humanity. The Chamber accepted his plea. Following a pre-sentencing hearing on 17 January 2007, where five character witnesses were heard, the Chamber sentenced Nzabirinda to seven years' imprisonment on 23 February 2007.

The Prosecutor v. Pauline Nyiramasuhuko, Arsène Shalom Ntahobali, Sylvain Nsabimana, Alphonse Nteziryayo, Joseph Kanyabashi, and Élie Ndayambaje ("*Butare* case")

25. This trial, involving the largest number of jointly prosecuted accused before the Tribunal, has progressed to an advanced stage. On 27 June 2006, Sylvain Nsabimana, prefect of Butare from 19 April to 17 June 1994, started the presentation of his defence. He was the third accused to present his defence in this case. After calling 11 witnesses, including the Accused, he closed his case on 11 November 2006. The defence for Nteziryayo (prefect of Butare from 17 June to July 1994) started on 2 December 2006 and closed on 9 July 2007, after calling 23 witnesses, including the accused. The defence for Kanyabashi (former *bourgmestre* of Ngoma commune in Butare) penultimate accused to present his defence, made its opening statement on 10 July 2007. The case is scheduled to resume on 20 August 2007. Defence cases for Nyiramasuhuko, Ntahobali, Nsabimana and Nteziryayo

have closed, save for one witness for Ntahobali, who is scheduled to testify via video link in October 2007, and one witness for Nteziryayo, who has not yet been located. During the reporting period, 31 written decisions and 22 substantive oral decisions were rendered. The Chamber sat for 142 days.

The Prosecutor v. Casimir Bizimungu, Justin Mugenzi, Prosper Mugiraneza, and Jérôme Bicamumpaka ("*Bizimungu et al.* Case")

26. During the reporting period, the defence for Justin Mugenzi (Minister of Trade and Industry in April 1994) completed the presentation of its case on 29 August 2006, after calling 19 witnesses, including the accused. The defence for Casimir Bizimungu (Minister for Health in the Interim Government) then commenced the presentation of his case on 30 August 2006. The Chamber heard 22 witnesses, including the accused. The presentation of this defence took three trial sessions and closed on 12 June 2007. The proceedings are now adjourned to 13 August 2007 for the commencement of the defence of Jérôme Bicamumpaka, the third accused person in this case. During the reporting period, the Chamber sat for 77 days and 30 written and oral decisions were rendered.

The Prosecutor v. Augustin Ndindiliyimana, Augustin Bizimungu, Francois-Xavier Nzuwonemeye, and Innocent Sagahutu ("*Ndindiliyimana et al.* Case")

27. This joint trial of four former senior military officers commenced on 20 September 2004. The prosecution closed its case on 7 December 2006 after calling 71 factual witnesses, plus 1 expert witness. The defence of the first accused commenced on 16 April 2007. As of 18 June 2007, the defence had called 24 witnesses. During the reporting period, the Chamber rendered 30 written and 10 oral decisions, and sat for 75 trial days. The case has been adjourned to 17 September 2007 for the continuation of the defence case.

The Prosecutor v. Emmanuel Rukundo

28. This trial commenced on 15 November 2006. On 12 March 2007, the prosecution closed its case after calling 18 witnesses during 25 trial days. The defence commenced on 9 July 2007. During the reporting period, the Chamber rendered 14 written and 1 oral decision over the course of 25 trial days.

The Prosecutor v. Juvénal Rugambarara

29. This case is still at the pre-trial phase. On 12 June 2007, the Prosecutor filed a motion for leave to amend the indictment. On 13 June 2007, the parties filed a joint motion for consideration of a guilty plea. On 28 June 2007, the Chamber granted the request for amendment of the indictment. The amended indictment was filed on 2 July 2007. On 13 July 2007, the Chamber accepted the guilty plea of the accused and scheduled a sentencing hearing for 17 September 2007.

Pre-trial matters

30. The Chamber attended to pre-trial matters in the case of *Tharcisse Renzaho, Hormisdas Nsengimana, Joseph Nzabirinda, Juvénal Rugambarara* and *Emmanuel Rukundo.*

3. Trial Chamber III

31. During the reporting period, Trial Chamber III issued two judgements, conducted trials in three cases involving six accused, referred one indictment to a State and attended to pre-trial matters in a case involving one accused.

The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse and Joseph Nzirorera

32. This trial concluded its third session on 10 July 2006, after 32 trial days during which the Chamber heard four prosecution witnesses. The fourth trial session commenced on 26 October 2006. At its conclusion on 13 December 2006, a total of 13 prosecution witnesses had been heard by the Chamber. However, on 19 January 2007, one of the judges withdrew from the case for health reasons. After hearing the parties on the matter, the remaining judges decided, on 6 March 2007, on the continuatioa of the proceedings with a substitute judge. That decision was affirmed by the Appeals Chamber on 20 April 2007. Judge Vagn Joensen joined the Bench on 8 June 2007. The trial resumed on 12 June 2007 for the continuation of the prosecution case. The fifth trial session concluded on 30 July 2007. During the reporting period, the Chamber sat for 46 days and delivered more than 50 oral and written decisions.

The Prosecutor v. Athanase Seromba

33. On 13 December 2006, after hearing a total of 39 witnesses over 67 trial days, the Chamber found Athanase Seromba, a Roman Catholic priest, guilty of genocide and extermination as a crime against humanity. A single sentence of 15 years of imprisonment was imposed on Seromba. Both parties filed a notice of appeal against the judgement.

The Prosecutor v. André Rwamakuba

34. This trial concluded on 9 February 2006, after 79 trial days. On 20 September 2006, André Rwamakuba, Minister of Primary and Secondary Education in the Interim Government of April 1994, was acquitted of all charges against him. Rwamakuba was charged with genocide, or alternatively, complicity in genocide, and crimes against humanity for acts allegedly committed between 6 and 30 April 1994 in Gikomero commune and at Butare University Hospital. After assessing the evidence as a whole, the Chamber found the prosecution witnesses not credible or reliable. It concluded that the prosecution failed to prove beyond a reasonable doubt the allegations against Rwamakuba. The Chamber also found that André Rwamakuba's right to legal assistance had been violated as a result of the Registrar's failure to appoint Duty Counsel during the initial months of his detention at the United Nations Detention Facility. It therefore ordered an appropriate remedy. The decision on the appropriate remedy is pending appeal.

The Prosecutor v. Protais Zigiranyirazo

35. This trial started on 3 October 2005, with the prosecution calling 25 witnesses, including four investigators and one expert witness. The prosecution closed its case on 28 June 2006, after 46 trial days. Following the Appeals Chamber decision vacating the Trial Chamber's decision to hear prosecution witness Michel Bagaragaza in the absence of the accused, the prosecution reopened its case to hear the witness anew. The prosecution then closed its case for a second time on

30 November 2006. Thus far, the defence has called 35 witnesses over 35 trial days, and will finish its case in the next trial session, set to begin 19 November 2007.

The Prosecutor v. Simon Bikindi

36. The trial of Simon Bikindi, a well-known composer and singer of popular music, started on 18 September 2006. The prosecution closed its case on 22 February 2007 after having called 20 witnesses, including one investigator and two expert witnesses. After the withdrawal of the lead counsel for the accused by the Registrar, a new lead counsel was appointed, and the defence case is scheduled to commence on 24 September 2007.

The Prosecutor v. Michel Bagaragaza

37. On 30 August 2006, the Appeals Chamber upheld the Trial Chamber's decision denying the prosecution's request for referral of the original indictment against Michel Bagaragaza to Norway. On 30 November 2006, the Trial Chamber granted the prosecution leave to amend the Indictment to add an additional war crimes count. Furthermore, at the prosecution's request, the Chamber granted, in April 2007, the referral of the amended indictment to the Netherlands.

Pretrial matters

38. The Chamber is seized of pretrial matters in relation to the case of *Idelphonse Hategekimana*.

4. Appeals Chamber

39. During the reporting period, the Appeals Chamber was seized of appeals from judgement in 8 cases, 10 interlocutory appeals, 9 motions for review or reconsideration, and 2 referral appeals. The Appeals Chamber rendered 4 judgements, 9 interlocutory decisions, 8 decisions on review or reconsideration, 1 decision on a referral appeal, and 96 pre-appeal orders and decisions.

(a) Appeals from Judgement

The Prosecutor v. André Ntagerura, Emmanuel Bagambiki, Samuel Imanishimwe

40. On 6 and 7 February 2006, the Appeals Chamber heard, in Arusha, the submissions on the merits of the prosecution's appeal as well as the appeal of Samuel Imanishimwe, an acting commander of the Cyangugu military camp in April 1994. At a court session on 8 February 2006, the Appeals Chamber rejected the prosecution's appeal against the acquittals of André Ntagerura (former Minister of Transport and Communications in the Interim Government) and Emmanuel Bagambiki (prefect of Cyangugu). The judgement was rendered on 7 July 2006.

The Prosecutor v. Sylvestre Gacumbitsi

41. On 17 June 2004, the Trial Chamber found Sylvestre Gacumbitsi, a *bourgmestre* in April 1994, guilty of genocide and crimes against humanity. It imposed a single sentence of 30 years' imprisonment.

42. The Appeals Chamber heard the submissions on the merits of the appeals of both parties on 8 and 9 February 2006 in Arusha. On 7 July 2006, the Appeals

Chamber allowed in part the prosecution's appeal and entered a sentence of imprisonment for the remainder of Gacumbitsi's life.

Emmanuel Ndindabahizi v. The Prosecutor

43. The Appeals Chamber heard the submissions on the merits of the appeal of the Minister of Finance of the Interim Government on 9 April 1994, Emmanuel Ndindabahizi, on 6 July 2006 in Arusha. On 16 January 2007, the Appeals Chamber vacated three convictions against him, but affirmed the sentence of imprisonment for the remainder of his life imposed by the Trial Chamber.

Mikaeli Muhimana v. The Prosecutor

44. On 28 April 2005, Mikaeli Muhimana was found guilty of genocide, and rape and murder as crimes against humanity. He was sentenced to imprisonment for the remainder of his life.

45. The pre-appeal procedures and the briefing were completed during the reporting period. The Appeals Chamber heard the submissions on the merits of the appeals of both parties on 15 January 2007 in Arusha. In the judgement rendered on 21 May 2007, although the Appeals Chamber allowed two grounds of appeal filed by Muhimana, it affirmed his sentence.

Ferdinand Nahimana, Jean-Bosco Barayagwiza, Hassan Ngeze v. The Prosecutor

46. On 3 December 2003, the Trial Chamber sentenced to life imprisonment Ferdinand Nahimana, Jean-Bosco Barayagwiza, co-founders of Radio Télévision Libre des Milles Collines and members of its Steering Committee, and Hassan Ngeze, founder and Editor-in-Chief of the newspaper *Kangura*, notably for their direct and public incitement to commit genocide through the use of the media.

47. Pre-appeal procedures were completed during the reporting period, with 32 pre-appeal decisions or orders being issued by the Appeals Chamber and the Pre-Appeal Judge, including several decisions on motions for leave to present additional evidence pursuant to rule 115 of the Rules of Procedure and Evidence. The Appeals Chamber heard the submissions on the merits of the appeals by all parties from 16 through 18 January 2007 in Arusha. The Appeals Chamber is currently deliberating on the judgement.

Aloys Simba v. The Prosecutor

48. On 13 December 2005, Aloys Simba, a retired lieutenant colonel, was found guilty of genocide and crimes against humanity. He was sentenced to 25 years' imprisonment.

49. The pre-appeal procedures and the briefing were completed during the reporting period. The Appeals Chamber heard the submissions on the merits of the appeals of both parties on 22 May 2007 in Arusha. The Appeals Chamber is currently deliberating on the judgement.

Tharcisse Muvunyi v. The Prosecutor

50. Trial Chamber II rendered its judgement in this case during the reporting period, on 12 September 2006, and issued the written judgement on 18 September

2006. Tharcisse Muvunyi filed his notice of appeal on 12 October 2006, and the prosecution filed its notice of appeal on 17 October 2006. The pre-appeal procedures continued through the end of the reporting period, with all briefing being completed in May 2007. The Appeals Chamber is preparing to hear the merits of the appeals in the next reporting period.

Athanase Seromba v. The Prosecutor

51. Trial Chamber III rendered its judgement in this case on 13 December 2006, and issued the written judgement on 19 December 2006. Both parties appealed the judgement. The prosecution's notice of appeal was filed on 11 January 2007. Athanase Seromba's notice of appeal was filed on 19 January 2007. The pre-appeal procedures and briefing continued through the end of the reporting period.

(b) Interlocutory appeals: most significant decisions

The Prosecutor v. Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze, Anatole Nsengiyumva, Decision on Aloys Ntabakuze's Interlocutory Appeal on Questions of Law Raised by the 29 June 2006 Trial Chamber I Decision on Motion for Exclusion of Evidence, 18 September 2006

52. On 18 September 2006, the Appeals Chamber allowed, in part, Aloys Ntabakuze's appeal of a Trial Chamber decision on his request to exclude certain evidence as outside the scope of the indictment. The Appeals Chamber found that the Trial Chamber did not err in its articulation of the principles concerning defects in the indictment and clarified the approach to take when deciding whether an objection based on a defect in the indictment should be considered as timely raised. The Appeals Chamber instructed the Trial Chamber to consider whether the extent of the defects in the indictment materially prejudiced the accused s right to a fair trial by hindering the preparation of a proper defence.

The Prosecutor v. Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze, Anatole Nsengiyumva, Decision on Interlocutory Appeal Relating to Disclosure under rule 66 (B) of the Tribunal's Rules of Procedure and Evidence, 25 September 2006

53. On 25 September 2006, the Appeals Chamber granted the appeal of Anatole Nsengiyumva and Gratien Kabiligi against a Trial Chamber decision which denied their request for the disclosure of certain documents related to anticipated defence witnesses that were in the possession of the prosecution. The Appeals Chamber found that the Trial Chamber erred in law by narrowly construing the prosecution's disclosure obligations under rule 66 (B) of the Rules of Procedure and Evidence in a manner inconsistent with the plain language of the provision and ordered the Trial Chamber to reconsider the defence request for the documents.

The Prosecutor v. Théoneste Bagosora, Gratien Kabiligi, Aloys Ntabakuze, Anatole Nsengiyumva, Decision on Motion for Reconsideration, 4 October 2006

54. On 4 October 2006, the Appeals Chamber rejected the request of Aloys Ntabakuze to reconsider its "Decision on Prosecutor's Interlocutory Appeal of Decision on Judicial Notice" rendered in the *Karemera et al.* case. The Appeals Chamber found that Aloys Ntabakuze had no standing to seek reconsideration of a

decision rendered in another case. It held that, as a general principle, only a party to a decision may request reconsideration thereof.

The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera, Decision on Motions for Reconsideration, 1 December 2006

55. On 1 December 2006, the Appeals Chamber dismissed the requests of Édouard Karemera, Joseph Nzirorera, and Mathieu Ngirumpatse to reconsider its "Decision on Prosecutor's Interlocutory Appeal of Decision on Judicial Notice" of 16 June 2006, in which it ordered Trial Chamber III to take judicial notice of three facts, including the fact that between 6 April and 17 July 1994, there was a genocide in Rwanda against the Tutsi ethnic group. The Appeals Chamber held that the appellants failed to demonstrate a clear error of reasoning in the decision or that reconsideration of the decision was necessary to prevent an injustice.

The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera, Decision on Appeals Pursuant to Rule 15bis(D), 20 April 2007

56. On 20 April 2007, the Appeals Chamber dismissed the appeals of Mathieu Ngirumpatse and Joseph Nzirorera from the "Decision on Continuation of the Proceedings", rendered on 6 March 2007, in which the two remaining judges decided to continue the part-heard trial with a substitute judge after one judge withdrew from the Bench. The Appeals Chamber found that the continuation of the trial with a substitute judge would not infringe the fair trial rights of the accused.

The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera, Decision on Interlocutory Appeal Regarding Witness Proofing, 11 May 2007

57. On 11 May 2007, the Appeals Chamber dismissed Joseph Nzirorera's appeal of a Trial Chamber decision, which permitted the parties to "proof" their witnesses prior to their testimony. The Appeals Chamber found no error in the Trial Chamber's decision to distinguish a pretrial decision of the International Criminal Court, which prohibited the practice, as it was not binding on the Tribunal. The Appeals Chamber further found that the Trial Chamber's definition of acceptable witness proofing was consistent with the approach approved by the Appeals Chamber in the Gacumbitsi appeal judgement.

The Prosecutor v. Édouard Karemera, Mathieu Ngirumpatse, Joseph Nzirorera, Decision on "Joseph Nzirorera's Interlocutory Appeal of Decision on Obtaining Prior Statements of Prosecution Witnesses after They Have Testified", 31 May 2007

58. On 11 April 2007, Joseph Nzirorera appealed against the "Decision on Defence Motion for Cooperation of Rwanda to Obtain Statements of Prosecution Witnesses ALG, GK and UB" of 22 March 2007, on the basis that the two judges who rendered this decision exceeded their authority under rule 15bis(F) of the Rules of Procedure and Evidence. In its decision of 31 May 2007, the Appeals Chamber considered that Rule 15bis(F) allowed for a two-judge bench to conduct routine matters, but that, in this case, the issues considered and ruled upon by the two judges were of a non-routine nature. Consequently, the Appeals Chamber granted the motion in part and vacated the impugned decision.

Protais Zigiranyirazo v. The Prosecutor, Decision on Interlocutory Appeal, 30 October 2006

59. On 30 October 2006, the Appeals Chamber granted Protais Zigiranyirazo's appeal of a Trial Chamber decision, which decided to hear a witness in person in the Netherlands while he followed the proceedings by video-link. The Appeals Chamber held that the Trial Chamber erred in law in finding that Protais Zigiranyirazo's right to be present at his trial during the testimony of an apparently key witness against him could be met by video-link and excluded the testimony of the witness.

(c) Motions for review or reconsideration

Georges Rutaganda v. The Prosecutor, Decision on Requests for Reconsideration, Review, Assignment of Counsel, Disclosure, and Clarification, 8 December 2006

60. On 8 December 2006, the Appeals Chamber dismissed Georges Rutaganda's request for reconsideration and review of the appeal judgement in his case. The Appeals Chamber determined that it had no jurisdiction to reconsider a final judgement and that Georges Rutaganda had not identified any new facts which would have resulted in a miscarriage of justice in his case, necessitating review.

Eliézer Niyitegeka v. The Prosecutor, Decision on Request for Review, 6 March 2007

61. On 6 March 2007, the Appeals Chamber dismissed Eliézer Niyitegeka's second request for review. The Appeals Chamber determined that Eliézer Niyitegeka did not identify any new facts for purposes of review.

(d) Appeal concerning referral

The Prosecutor v. Michel Bagaragaza, Decision on rule 11bis Appeal, 30 August 2006

62. On 30 August 2006, the Appeals Chamber dismissed the prosecution's appeal of a Trial Chamber decision denying its request to transfer the case against Michel Bagaragaza to Norway under rule 11bis of the Rules of Procedure and Evidence. The Appeals Chamber noted that Norway's jurisdiction over Michel Bagaragaza's crimes would be exercised pursuant to legislative provisions addressed to the prosecution of ordinary crimes. The Appeals Chamber held that the Tribunal may refer cases only to States with a capacity to charge and convict for those international crimes listed in the Tribunal's statute.

C. Activity of the Office of the Prosecutor

63. With regard to the Office of the Prosecutor, headed by Hassan Jallow, all outstanding indictments for genocide have now been confirmed. The Prosecutor has handed 30 case files to the Government of Rwanda for prosecution before the national court. The Prosecutor, pursuant to rule 11bis of the Rules of Procedure and Evidence, has transferred one case to the Netherlands and has filed motions for the transfer of one case to Rwanda and two cases to France. The Prosecutor awaits Trial Chamber decisions on the three motions. Negotiations are in progress with a number of Governments for the transfer of approximately 15 cases from the Tribunal to

national jurisdictions. The African Commission on Human and Peoples' Rights has agreed to monitor all cases transferred to African countries on behalf of the Prosecutor. The tracking of fugitives has intensified.

D. Activity of the Registry

64. The Registry, headed by Adama Dieng, continued to support the judicial process by providing administrative and management support to the other organs of the Tribunal, and providing judicial and legal support to the Trial Chambers and the defence. The Registry continued to seek support from Member States, international organizations and other stakeholders in the conduct of proceedings.

1. Office of the Registrar

65. The Immediate Office of the Registrar has maintained high-level diplomatic contacts and brought about formal and informal agreements with States and international organizations to secure their continued cooperation with the Tribunal and ensure, among other things, the smooth running of trials, protection of witnesses, and the successful and timely meeting of the completion strategy. Rwanda has continued to cooperate with the Tribunal by facilitating the flow of witnesses from Kigali to Arusha and by providing relevant documents to the court proceedings.

66. During the reporting period, there has been a significant increase in judicial cooperation with Member States. The External Relations and Strategic Planning Section sent more than 120 notes verbales and correspondences requesting assistance and judicial cooperation from Member States for defence teams, compared to approximately 100 during the previous year. Official correspondence has been sent to various Member States with a view to organizing meetings and interviews of potential witnesses by members of the defence teams, establishing contacts with potential witnesses in order to obtain their preliminary approval for travel to the seat of the Tribunal for testimony purposes and to organize video-links from several Members States. Overall, the Tribunal benefited from a good level of cooperation from Member States and international organizations.

67. During the reporting period, diplomatic efforts led to the successful relocation of one acquitted person in December 2006. Up to 30 June 2007, three acquitted persons remained under the Tribunal's protection; two of them have remained so for more than three years. The Registrar continues to deploy all efforts for their relocation. An additional relocation took place in early July 2007.

68. The Conference and Protocol Services Unit witnessed an increase of approximately 385 per cent in the number of persons visiting the Tribunal in the first half of 2007. The Tribunal continued to host numerous government ministers, civil society representatives, human rights advocates, members of the Rwandan Genocide Survivors' Association and university students. On 7 March 2007, the President, Prosecutor and Registrar of the Tribunal met with the United States Ambassador-at-Large for War Crimes.

69. The Press and Public Affairs Unit, in compliance with the completion strategy, increased its monitoring and internal circulation of Tribunal-related media reports. The Unit increased the number of press briefings and press releases issued. It also

improved the Tribunal's website, making it more attractive and accessible and updated it daily. The Tribunal updated and recirculated its films, informational brochures, posters and case profile lists, and accused lists were updated to reflect the latest developments. The Unit processed numerous local and international enquiries, and broadcast several judicial proceedings via satellite signal for use by media professionals and the public. In an effort to publicize and promote the work of the Tribunal, the Unit organized exhibitions on the work of the Tribunal in the United Republic of Tanzania, Rwanda, Ghana and several Rwandan schools, and launched an annual drawing and essay competition related to the work of the Tribunal for primary and secondary school students in Rwanda and the United Republic of Tanzania.

70. The Outreach Programme continued to organize regular visits of Rwandan journalists, lawyers, human rights advocates, religious leaders, and civil society representatives to the Tribunal in Arusha, where they were able to attend and observe trials proceedings and to be briefed on various aspects of the work of the Tribunal. The Outreach Programme was strengthened with input from the Press and Public Affairs Unit and witnessed an increase in attendance to an average of 100 visitors per day at *Umusanzu mu Bwiyunge*, the Information Centre in Kigali, Rwanda. The programme, in collaboration with the Rwandan judiciary, also conducted capacity-building needs assessment training. It provided online legal research and training sessions in legal information and evidence management to approximately 290 Rwandan university students, professors, judicial officials, Rwandan court registrars and personnel in the Rwandan Office of the Prosecutor General. The Outreach Programme also extended its awareness-raising campaigns to youth in Rwandan secondary schools. During the reporting period, the Outreach Programme produced documentaries on some of the completed cases of the Tribunal and screened them before approximately 7,000 students in 13 Rwandan schools.

71. During the period under review, the Special Adviser to the Registrar on Gender Issues continued to support the Registrar's executive directive for the attainment of gender balance in the processes of staff recruitment, promotions and the integration of gender concerns in relevant administrative and judicial procedure, and provided technical inputs for promoting the Tribunal's gender-sensitive policies and programmes. The Adviser saw an increase in cooperation and funding from the European Union and the Irish Government. Major activities by the Adviser targeted the provision of support measures conducive to the physical and psychological rehabilitation of witnesses, particularly victims of sexual assault and other gender-based crimes. The Tribunal's Support Programme for Witnesses, funded from the Voluntary Trust Fund and coordinated by the Special Adviser on Gender Issues, provided for the delivery of medical and related social services to witnesses via the Tribunal's Annex Clinic for witnesses in Kigali. This project has witnessed increased accountability for specialized care offered by the Tribunal.

72. During the reporting period, the Legal Services and Internship Programme Unit assigned 205 interns and 13 legal researchers to the various Sections and Units of the Tribunal. The interns and legal researchers came from 46 countries from Africa, Europe, North America, Asia and Australia. On average, 60 per cent of the participating interns were women. The highest number of legal interns and legal researchers were accepted by the Office of the Prosecutor as well as the Chambers Support Section. Additional interns were assigned in smaller numbers to various Registry Sections. Owing to the limited office space set aside for interns, the various

Receiving Sections and Units of the Tribunal could not accommodate more than this number of interns and legal researchers during the period under review.

2. Judicial and Legal Services Division

73. During the reporting period, the Court Management Section continued to provide support and services to the various sections of the Chambers of the Tribunal. The English Court Reporters Unit and French Court Reporters Unit have again significantly and efficiently improved the turnaround time for production of transcripts. The real-time court reporting pilot project, initiated in April 2005, has been extended to all ongoing trials. This system provides instantaneous transcripts of the proceedings to the judges and the parties concerned.

74. In addition to supporting the ongoing work of the Trial Chambers, the Judicial Records and Archives Unit has implemented a project to enhance the user-friendliness of the archives system, TRIM database, by converting all documents into full-text searchable material. The original materials from three closed cases have been shipped to United Nations Headquarters in New York for permanent retention. The Judicial Records and Archives Unit staff have conducted several information management training sessions as part of the Rwandan capacity-building programme. It has continued to provide assistance in archiving the administrative records of other support sections within the Tribunal, and has assisted in developing plans and policies regarding the archival legacy of the Tribunal.

75. During the reporting period, the Defence Counsel and Detention Management Section continued to offer necessary support to defence teams representing indigent accused persons or suspects before the Tribunal, as well as provide assistance to accused persons or suspects detained at the United Nations Detention Facility under the authority of the Tribunal. The effective disposal of cases by trial or appeal led to a slight drop in the number of defence teams, from 96 in 2006 to 80 in 2007. There was a measured drop in the number of complaints from detainees. The Defence Counsel and Detention Management Section continues to work on improving its databases. The Unit, in collaboration with the Judicial Records/Archives Unit, worked on its filing and record system to facilitate retrieval of information. The Unit was also pivotal in working to introduce necessary amendments to basic documents.

76. Following the death of one prisoner, the acquittal of two detainees, and the release of one prisoner after completion of his imprisonment term, the United Nations Detention Facility at Arusha housed a total of 55 persons, including 35 detainees and 20 prisoners during this reporting period. The Detention Facility also temporarily housed 23 prisoner witnesses from Rwanda, and one from Mali for the duration of their testimony before the Tribunal. The International Committee of the Red Cross visited the detention facility on 8 November 2006 and noted that it conforms to international prison standards.

77. During the reporting period, the Witnesses and Victims Support Section monitored a total of 280 witnesses, including 114 prosecution witnesses, called to testify in 7 trials and 166 defence witnesses called to testify in 14 trials. In cooperation with the Office of the United Nations High Commissioner for Refugees (UNHCR) and the government authorities in the concerned countries of residence, one of the prosecution witnesses was relocated and all other witnesses were returned to their countries of residence. Post-trial monitoring and protective measures are

diligently being implemented with improved communication between UNHCR and the witnesses' host countries.

78. During the period under review, the Language Services Section has continued to provide interpretation, translation and reproduction services to the Chambers, the parties and the Registry. In addition, in the light of the completion strategy of the Tribunal, two roster-building campaigns aimed at selecting suitable simultaneous interpreters from various countries were also undertaken with a view to pre-empting any potential disruption in the smooth running of Trial Chambers.

79. During the reporting period, the Legal Library and Reference Section continued to provide valuable information and documentation services in order to support the Tribunal's trial process. The library online public access catalogue enhanced access to the Library holdings and contributed to increase the number of requests for Library services from internal as well as external users. The *Umusanzu* outreach library unit in Kigali increased its collection to respond to the growing demand of Rwandan users, and continued to receive more than 80 users per day. The Library Section initiated the compilation of a jurisprudential DVD that will comprise the case law of the Tribunal from 1995 to 2006. The Library also provided training in library management and jurisprudence compilation to a team of Rwandan judicial librarians. In addition, the Library developed a training curriculum for the Rwandan Bar Association and organized internal training in information management, web design and web publishing in June 2007 for the Tribunal's librarians.

3. Division of Administrative Support Services

80. As of 30 June 2007, the Tribunal had 891 staff members against an authorized complement of 1,042 posts, with 151 vacant posts. Members of staff come from 88 countries. The staff gender ratio was 63 per cent male and 37 per cent female. The average vacancy rate during the 12-month period under review was 12 per cent. As at 30 June 2007, the average vacancy rate stood at 15 per cent. If the current trend continues, the Tribunal projects that the vacancy rate will be 22 per cent by the end of 2007. The Training, Staff Welfare and Counselling Unit has increased the number of staff development courses offered in order to assist in improving staff retention.

81. The Health Services Unit in Arusha has introduced trauma counselling services to witnesses who are appearing before the Trial Chambers in order to support them during testimony. Similar counselling services are being provided to staff members experiencing anxiety owing to the closing process of the Tribunal. The Health Services Sub-Unit in Kigali is assisted by a consultant doctor, who is providing medical services to staff members and their dependants. Medical care is also provided in Kigali to witnesses, thanks to the assistance of a doctor, two nurses and a laboratory technician.

II. Recommendations

82. In view of its completion strategy and the time frames stipulated in Security Council resolutions 1503 (2003) and 1534 (2004), the Tribunal recommends that:

(a) It continue to receive sufficient resources to enable it to complete its work and mandate to bring to justice those persons who were the alleged architects

of the genocide and violations of international humanitarian law that were committed in Rwanda in 1994;

(b) Member States continue to facilitate the travel of witnesses to and from the seat of the Tribunal, particularly in cases where witnesses do not have the required travel documents;

(c) Member States remain receptive to discussions relating to the possible transfer of cases to their respective jurisdictions for trial;

(d) Member States assist and cooperate in the arrest and transfer of accused and suspects who remain at large;

(e) Member States continue to assist the Tribunal to resettle individuals who are acquitted by the Tribunal and who are awaiting identification of a State willing to grant them permanent residence.

Conclusion

83. As the present report demonstrates, the Tribunal remained committed to doing all in its power to discharge its mandate as effectively and efficiently as possible during the reporting period. The Tribunal intensified its prosecutorial and judicial work and strengthened efforts to improve the Rwandan judicial system, including its capacity to prosecute cases transferred from the Tribunal. Key achievements include: the delivery of five Trial Chamber judgements and four Appeals Chamber judgements; the completion of two cases concerning five accused; the major progress made in the presentation of the defence cases in seven trials involving 18 accused; the commencement of the trial of one accused; a guilty plea in one single-accused case; the referral of one case to a State; and the maximization of the use of the Tribunal's courtrooms.

84. In the process of achieving its mandate, the Tribunal also contributes to bring justice to victims of the massive crimes that were committed, and is continuously establishing a record of facts that will aid reconciliation in Rwanda. The Tribunal will leave a legacy of international jurisprudence that can guide future courts and deter the future commission of these grave crimes, and prevent impunity by potential perpetrators.

85. The Tribunal expresses its appreciation to Member States for their continuing interest in and support of its activities.

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Report of the Secretary-General**

Summary

The present report responds to General Assembly resolution 60/254 on the review of the efficiency of the administrative and financial functioning of the United Nations, in which the Assembly welcomed the establishment of the Ethics Office, endorsed its main responsibilities and requested annual reporting on the activities of the Office and the implementation of ethics policies under the agenda item relating to human resources management.

The report provides a summary of the activities of the Ethics Office from 1 August 2006 to 31 July 2007.

* A/62/150.

** The present report has been prepared following the conclusion of the annual reporting cycle of 31 July 2007.

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 60/254, paragraph 16 (i), in which the Assembly requested annual reporting on the activities of the Ethics Office and the implementation of ethics policies for the consideration and decision of the Assembly, as appropriate, under the agenda item relating to human resources management.

2. The report also contains a comprehensive review of the work of the Ethics Office, including the possible establishment of a group of internationally representative experts to provide periodic, independent assessment of the Office for the consideration of the General Assembly at its sixty-second session, as indicated in paragraph 16 (g) of the aforementioned resolution.

II. Background and general information

3. The establishment of the independent Ethics Office in the United Nations Secretariat was approved by the General Assembly at the 2005 World Summit (resolution 60/1, paragraph 161 (d)) in the context of the overall Secretariat and management reform initiatives, which are anchored in a culture of ethics, transparency and accountability. The Office commenced its operation on 3 January 2006.

4. The objective of the Ethics Office, as set forth in the Secretary-General's bulletin ST/SGB/2005/22, is to assist in ensuring that all staff members observe and perform their functions consistent with the highest standards of integrity, as envisaged in the Charter of the United Nations. The Office reports directly to the Secretary-General and does not replace any existing mechanism available to staff for reporting misconduct or resolving grievances.

5. The main areas of responsibility of the Ethics Office are as follows:

(a) Developing standards, training and education on ethics issues, in coordination with the Office of Human Resources Management and other offices, as appropriate, including ensuring annual ethics training for all staff;

(b) Providing confidential advice and guidance to staff on ethical issues (such as conflicts of interest), including administering an ethics helpline;

(c) Administering the Organization's financial disclosure programme;

(d) Undertaking the responsibilities assigned to it under the Organization's policy for the protection of staff against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations;

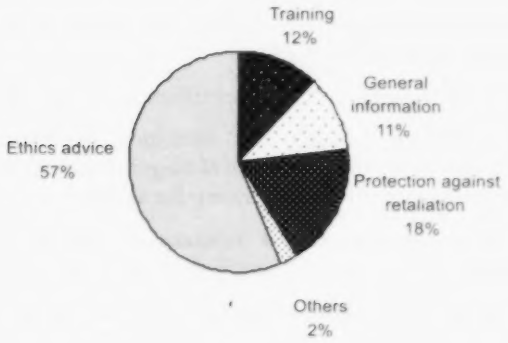
(e) Such other functions as considered appropriate for the Office.

6. The Ethics Office functions as a guardian of the ethical standards and integrity for the United Nations. In that capacity, the Office is proactive in updating those standards and providing information and advice, as well as developing content for training. In addition, the Office is consulted on the ethical implications of key policies, such as procurement and post-employment restrictions, asset investment, and personnel appointments.

7. The Ethics Office provides a secure confidential environment in which staff can feel free to consult on ethical issues and seek protection against retaliation for the reporting of misconduct in good faith. To that end, the Office maintains an ethics helpline (+1 917 367 9858) and a dedicated e-mail address (ethicsoffice@un.org). Information on the Office is also available to staff through the United Nations Intranet (iSeek).

8. The current reporting period from 1 August 2006 through 31 July 2007 marked the first full operation cycle of the Ethics Office, although it was not fully complemented until May 2007. The total number of requests for the services of the Office was 287, representing a slight increase on a monthly average basis as compared to the total of 153 requests from the period January-July 2006. Requests for services fell into the following categories: ethics advice (57 per cent); protection against retaliation for reporting misconduct (18 per cent); general information (11 per cent); training (12 per cent); and others (2 per cent). The time required to respond to each request varied considerably, from a few minutes to several weeks or longer, depending on the nature, the complexity and the circumstances of requests. Figure 1 below shows the breakdown of requests by category.

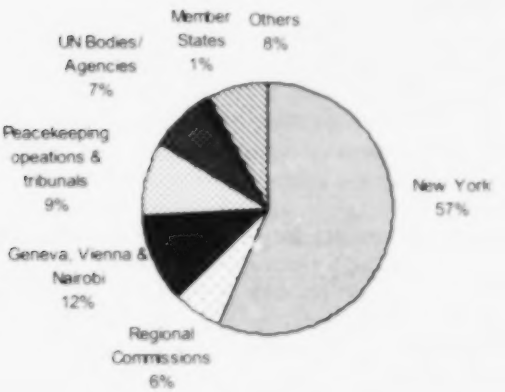
Figure 1
Requests by category
(1 August 2006-31 July 2007)



9. Requests for the services of the Ethics Office came from diverse geographical locations and groupings, as illustrated in figure 2 below: New York (57 per cent); regional commissions (6 per cent); United Nations Offices at Geneva, Vienna and Nairobi (12 per cent); peacekeeping operations and tribunals (9 per cent); United Nations bodies and agencies (7 per cent); Member States (1 per cent); and others (8 per cent). A total of 35 per cent of requests came from duty stations outside Headquarters. Compared to the figures under the previous reporting cycle, the volume of requests from other United Nations bodies and agencies increased from 4 per cent of the total to 7 per cent during the present cycle, and from 6 per cent to

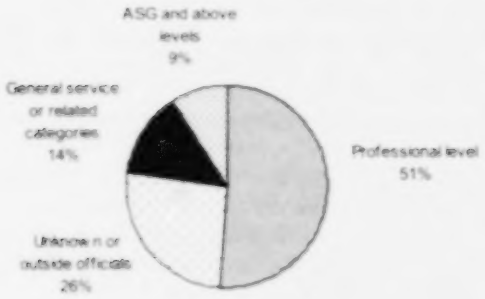
9 per cent for peacekeeping operations and tribunals. However, the volume of requests from regional commissions and New York-based staff decreased. Requests from other categories, such as former United Nations staff, is a new feature of this reporting cycle.

Figure 2
Requests by geographical location and grouping
(1 August 2006-31 July 2007)



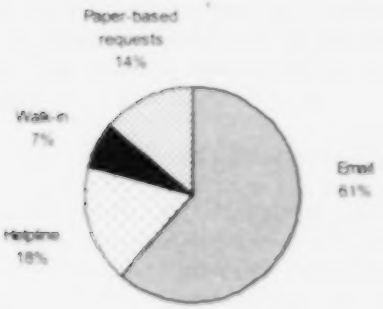
10. It is also noteworthy that requests for the services of the Ethics Office were received from staff at different levels across the Secretariat. Figure 3 below shows the breakdown of the distribution of requests by professional grade, from senior managers at the Assistant Secretary-General level and above (9 per cent), Professional staff (51 per cent), General Service and related categories (14 per cent), to those wishing not to indicate their professional levels as well as those from outside the United Nations. Compared to the information available from the previous reporting period, a 2 per cent increase in the demand for services of the Office by senior staff is noteworthy. This may be testimony to the heightened awareness of senior management of ethical issues and their implications in the work environment, such as conflicts of interest, outside activities and recruitment and appointment matters.

Figure 3
Requests by professional grade
(1 August 2006-31 July 2007)



11. With regard to the mode of contact for services by the Ethics Office, 176 requests (61 per cent) were made through electronic correspondence (e-mail), while 40 requests (14 per cent) were made through paper-based correspondence, 20 (7 per cent) by walk-in and 51 (18 per cent) by using the helpline and telephone communication. Figure 4 highlights the breakdown of requests by mode of contact. The high volume of requests made by e-mail may suggest that this mode is most preferred among the enquiring staff for various reasons.

Figure 4
Requests by mode of contact
(1 August 2006-31 July 2007)



12. As a general observation, the changes in the overall volume of requests for the services of the Ethics Office, the diversity of the sources of requests and the broad distribution of requests in terms of geographical location, groupings, professional grade and mode of contact point to the importance of ethics-related matters at the workplace, the growing need for ethics services and their accessibility and utilization at the United Nations. The following section of the report will elaborate on the main areas of work of the Office.

III. Activities of the Ethics Office and implementation of ethics policies

A. Standard-setting

13. Developing and setting ethical standards and standards of conduct is a key function of the Ethics Office, as stipulated in the Secretary-General's bulletin on the establishment of the Office (ST/SGB/2005/22). Using the comprehensive standards already in place for ensuring the highest integrity of United Nations staff, the Office is expected to update existing standards, develop new standards where necessary and conduct outreach activities on ethics issues. In doing so, the Office identifies gaps and overlapping or conflicting policies and makes recommendations for addressing these gaps and promoting the United Nations standards.

14. Several initiatives and activities related to the maintenance and strengthening of United Nations standards have been undertaken since the establishment of the Ethics Office, in particular, during the reporting period. These activities include the integration of ethics components into several training modules of the Office of Human Resources Management, a new post-employment restrictions standard (Secretary-General's bulletin ST/SGB/2006/15, which came into force on 1 January 2007), ethics training for the global Secretariat, target workshops for high-risk groups and consultations on the acceptance and disposal of gifts received by staff in their official capacity. These and other focused efforts are ongoing activities of the Office, in collaboration with other relevant departments and offices, in order to ensure the harmonization of the understanding and interpretation of relevant rules and procedures.

15. The Ethics Office has been consulted, or has provided comments and advice, regarding policy reviews and standard-setting activities of other offices on ethics-related issues, such as the development of a code of conduct for a particular category or group of staff.

16. The Ethics Office worked closely with the Office of Human Resources Management and the Office of Legal Affairs on a bilingual (English/French) user-friendly guide entitled "Working Together: Putting Ethics to Work". The guide highlights the main challenges to professional and ethical conduct and clarifies the reasons behind the standards in the context of the Organization's mission and values. It also aims to raise staff awareness of ethics issues and provide them with easy access and reference to key documents, services and other resources in order to help staff put the values and principles of the Organization into practice. The intent of the guide is to contribute to developing a system-wide understanding of the United Nations Code of Conduct and other standards. The guide, launched on

22 May 2007, has been widely disseminated in the Secretariat. An electronic version is available through the Ethics Office website.

17. The Ethics Office has commenced preliminary work associated with the formulation of a system-wide code of ethics for all United Nations personnel, including personnel of other United Nations bodies and agencies, as requested by the General Assembly in paragraph 161 (d) of its resolution 60/1 on the 2005 World Summit Outcome and paragraph 16 (a) of resolution 60/254 on the review of the efficiency of the administrative and financial functioning of the United Nations. The Ethics Office has reviewed existing key documents governing the conduct of United Nations staff — including the Staff Regulations (ST/SGB/2006/4), the Staff Rules (ST/SGB/2002/1), the Status, Basic Rights and Duties of United Nations Staff Members (ST/SGB/2002/13) and the Standards of Conduct for the International Civil Service adopted by the International Civil Service Commission in 2001 and welcomed by the General Assembly in its resolution 56/244 (the 2001 standards of conduct) — in the context of their relevant principles and values, in order to be able to structure a values-based Code of Ethics for the United Nations system. Further consultation with staff representatives and management at various levels and of various United Nations system entities is to be undertaken in the near future.

B. Training, education and outreach activities

18. The Ethics Office is mandated to ensure annual training on ethics issues to strengthen and raise awareness of ethics, integrity and accountability, in collaboration with the Office of Human Resources Management. This requires ongoing development, review and adaptation of training programmes and materials. The Ethics Office is further mandated to develop other means of education and outreach.

19. The Ethics Office, in collaboration with the Office of Human Resources Management, continued to strengthen existing training programmes on ethics and integrity. The expanded and adapted half-day ethics training workshop entitled "Working Together: Professional Ethics and Integrity in Our Daily Work" was launched Secretariat-wide for staff members at all levels in November 2006, following a pilot phase in the Department of Management from October 2005 to March 2006. The workshop provided a forum to review typical ethical issues and dilemmas faced in the workplace and to promote a common understanding of and commitment to professional ethics and integrity among United Nations staff at all levels. Since it was launched, the workshop has been completed by staff at Headquarters, the United Nations Offices at Geneva and Nairobi, and the regional commissions for Africa, Latin America and the Caribbean (Mexico office), and Asia and the Pacific. As of July 2007, over 3,400 staff members had participated in this training programme. Further schedules of workshops are planned at most duty stations commencing September 2007.

20. Prior to the Secretariat-wide roll-out of ethics training, the Ethics Office, along together with the Office of Human Resources Management, organized a special programme on "Ethics in the Workplace" for senior officials at the Under-Secretary-General and Assistant Secretary-General levels. The briefing took place in October 2006 and was opened by the then Deputy Secretary-General and addressed by my predecessor. Presentations were also made by the Ethics Office and the Assistant

Secretary-General for Human Resources Management. Another briefing of this nature is planned for the second half of 2007.

21. Other initiatives include the induction programme for senior managers at the Under-Secretary-General and Assistant Secretary-General levels, which comprises an ethics component involving a one-on-one session with the Director of the Ethics Office. The workshop "Ethics and Integrity in Procurement" was developed by the Procurement Service, in collaboration with the Office of Human Resources Management and the Ethics Office. A series of workshops were held in July 2007 and were opened by the Director of the Ethics Office.

22. In addition, the Ethics Office has participated in a number of management development courses, in particular the leadership and management development programmes (for staff at the P-4/5 and D-1/2 levels). These courses now include ethics training components with tailored case studies developed jointly by the Ethics Office and the Office of Human Resources Management, as do courses in other areas, such as procurement and contract management, performance management and competency-based selection and interviewing skills. The collaborative efforts of the Ethics Office and the Office of Human Resources Management are ongoing to refine and tailor ethics training initiatives and expand their scope and range in line with evolving needs.

23. As part of its efforts to reach out to staff in field missions, the Ethics Office has participated in an evolving workshop of the Department of Peacekeeping Operations designed to train and qualify senior mission support staff in a variety of practices and procedures. At the request of the Department of Peacekeeping Operations, the Office provided input into the development of the ethics module for the workshop. Customized training modules have also been held for officials working in specialized and/or sensitive areas, including procurement and investment. In November 2006, the Office participated in the Department's senior mission administration and resource training (SMART) programme.

24. Staff members of the Ethics Office also regularly attended and delivered briefings at learning programmes or, upon request, for special target groups (for example, staff members with financial disclosure obligations or new staff orientations). This is an ongoing feature of the Office's work.

25. The Ethics Office has undertaken several outreach activities to promote its role, mandate and services, clarify rules and standards, as well as raise awareness of ethics and integrity among United Nations staff. The Office worked in collaboration with the United Nations iSeek administrators to launch an "Ethics in Action" series which highlights ethical dilemmas and the Organization's standards for dealing with them. Four bilingual (English/French) brochures, entitled "Introduction to the Ethics Office", "Financial Disclosure Programme", "Protection Against Retaliation" and "Conflicts of Interest", have been developed by the Office and disseminated widely, including online. These have been used in outreach, training and communication activities.

26. In an effort to ensure standard harmonization and best practice exchange with other public and international institutions, in line with common trends in public sector governance, the Ethics Office maintains a substantive affiliation with professional institutions dealing with ethics issues. It participated in two workshops on ethics and compliance, one organized by the Conference Board in March 2007 on

"Business Ethics and Compliance" and the other organized by the European Commission also in March 2007 on "Reinforcing EU-UN Active Partnership through Administrative Cooperation" (workshop II on ethics). The Office will continue to participate in professional activities and network with similar organizations for the benefit of sharing best practices and remain apprised of latest developments and trends in the field. The Office has provided considerable assistance to other United Nations bodies and agencies on various ethics issues, such as financial disclosure and training, in order to ensure inter-agency consistency of application and knowledge-sharing.

C. Advice and guidance

27. The Ethics Office plays an important role in providing confidential advice and guidance to individual staff, staff groups and other departments and offices, as appropriate and required. In addition, the Office has been consulted on the ethical aspects of proposed policy changes. This advisory and preventive role is at the heart of the mandate of the Office.

28. Staff members may contact the Ethics Office to discuss ethics-related issues, including potential and actual conflicts of interest, outside activities, post-employment activities, gift acceptance and a wide range of other concerns, and to obtain clarification of relevant rules and regulations. Based on the facts presented by the enquiring staff member, the Office provides advice on the various courses of action a staff member may take in his or her personal or professional life in order to ensure that they, in the performance of their official duties, act in the best interest of the United Nations.

29. Generally, advice may deal with clarifying the Organization's standards and rules concerning a prohibited or restricted activity. In addition, ethics advice can address issues that are not specifically dealt with in the regulations and rules and require a values-based interpretation.

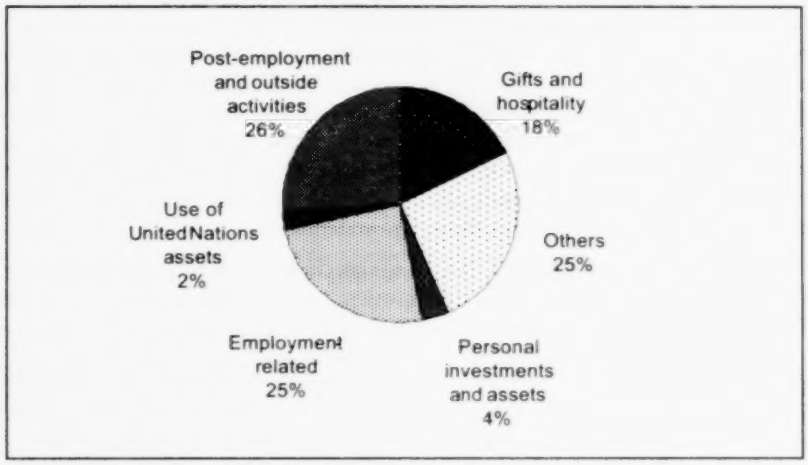
30. The Ethics Office does not replace existing mechanisms for reporting restricted activities (such as accepting gifts or participating in outside activities), or for granting authorization for such activities. Rather, it serves as an office from which one can seek advice prior to requesting authorization for a restricted activity in order to address any potential conflict of interest concerns.

31. During the reporting period, the Ethics Office received 162 requests for advice on a wide range of ethics-related concerns. Figure 5 presents a breakdown of requests by category: post-employment and outside activities (26 per cent); employment-related enquiries (23 per cent); personal investments and assets (4 per cent); gifts and hospitality (18 per cent); use of United Nations assets (2 per cent); and other enquiries (25 per cent).

32. On a monthly average, a considerable increase is noted in the total volume of requests for ethics advice during the current reporting period, as compared to the previous reporting period. It is also noteworthy that a major part of the requests during the reporting period were for advice on outside activities and post-employment activities, representing an increase of 5 per cent as compared to the previous reporting cycle. At the same time, the volume of requests relating to personal investments and assets decreased by 14 per cent, again when compared

with the previous reporting cycle. This decrease may be due, in part, to the fact that the financial disclosure programme is in its second year of operation.

Figure 5
Requests for ethics advice by issue
(1 August 2006-31 July 2007)


Post-employment and outside activities 26%
Gifts and hospitality 18%
Use of United Nations assets 2%
Others 25%
Employment related 25%
Personal investments and assets 4%

33. As the Ethics Office continues to establish itself, it has provided staff with a helpful and useful resource to interpret, guide and advise them on United Nations standards, rules and regulations. The changes noted above may point to the fact that: (a) ongoing training and other awareness-raising techniques have reached many staff; and (b) both managers and staff are more conscious of potential and/or actual conflicts of interest that may arise from their outside and post-employment activities, as well as their implications for their duties as United Nations staff. The increased volume of requests and the observed changes in the nature and type of requests indicate that there is growing demand for the Office's functions and services from staff at all levels.

34. The Ethics Office is further called upon by management to provide advice on potential conflicts of interest associated with possible senior-level appointments and ethical aspects of policy issues, including investment management and procurement.

35. In addition to the general advice and guidance offered to the global Secretariat, the Ethics Office, in the interest of ensuring the harmonization of policies and practices, responds to requests from other United Nations bodies and agencies on information-sharing and best practices.

D. Financial disclosure programme

36. The Ethics Office is mandated to administer the financial disclosure programme in order to maintain and enhance public trust in the integrity of the Organization. The primary purpose of the programme is to ensure that potential conflicts of interest arising from staff members' financial holdings, private

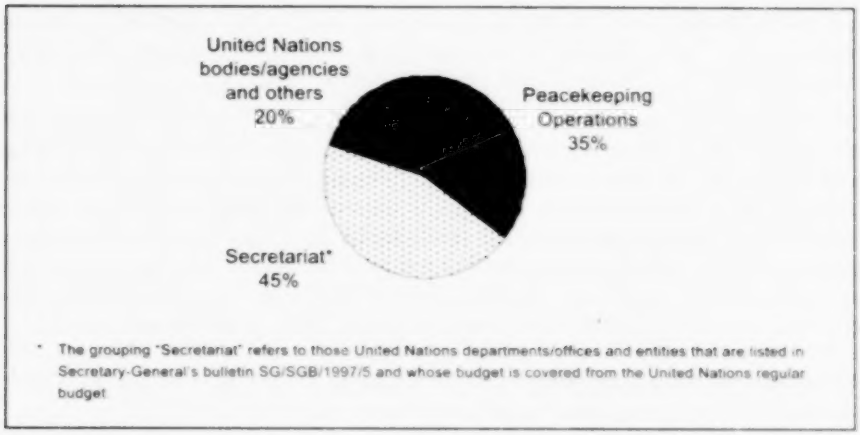
affiliations or outside activities can be identified and advice provided as to how best to manage the situation in the best interest of the United Nations. This may result in staff members being advised about the appropriate course of action, such as divesting themselves of holdings, or recusing themselves from a particular activity or aspect of their official functions.

37. The initial financial disclosure programme came into effect on 1 January 1999. However, the current Secretary-General's bulletin on financial disclosure and declaration of interest statements (ST/SGB/2006/6), which came into force on 1 May 2006, lowered the reporting thresholds and broadened the reporting requirements in respect of staff members' spouses and dependent children. It also broadened the scope of the policy to include: all staff members at the D-1/L-6 level and above; all staff (regardless of grade) whose principal duties include procurement or investment functions; and all those staff with access to confidential procurement or investment information. In addition, all staff serving in the Ethics Office are required to file financial disclosure statements.

38. The procedures adopted for the administration of the financial disclosure programme are based on best practices in other jurisdictions, particularly as they relate to the secure and confidential handling of data submitted by staff members. The General Assembly mandated that the statements submitted each year should be confidentially reviewed by an external financial firm. Following the established international public tender and evaluation procedure held in 2006, PricewaterhouseCoopers LLP (PwC) was selected. PwC commenced the first external review of staff members' financial disclosure and declaration of interest statements for the 2005 reporting period on 6 December 2006.

39. A total of 1,704 staff members were required to file a financial disclosure or declaration of interest statement regarding the 2005 filing period, which covered the period 1 January-31 December 2005. A total of 98 per cent (1,670 staff members) of staff complied with their obligation. The remaining 2 per cent (34 staff members) were referred to the Office of Human Resources Management for disciplinary action. Significantly, 58 per cent of staff submitted their statements via e-mail. Figure 6 below presents the breakdown of the distribution of participants in the financial disclosure programme for the 2005 filing period by organizational grouping: the Secretariat (including United Nations departments/offices and entities which are listed in Secretary-General's bulletin SG/SGB/1997/5 and whose budget is covered from the United Nations regular budget); peacekeeping operations; and United Nations bodies/agencies and others.

Figure 6
Financial disclosure participation by organizational grouping
(2005 filing period)


United Nations bodies/agencies and others 20%
Peacekeeping Operations 35%
Secretariat* 45%
* The grouping "Secretariat" refers to those United Nations departments/offices and entities that are listed in Secretary-General's bulletin SG/SGB/1997/5 and whose budget is covered from the United Nations regular budget

40. The financial disclosure statements submitted are reviewed for completeness of information and analysed in order to determine if there are any potential conflicts of interest between the staff members' confidentially disclosed private interests and their official duties and responsibilities.

41. In order to assess the impact of the 2005 financial disclosure programme had in relation to the reduction of organizational risk for financial conflicts of interest, PwC reported that 17, or 1 per cent, of the cases reviewed were identified as having a potential conflict of interest. In relation to these 17 cases, 14 staff members accepted the advice of PwC regarding the appropriate compliance arrangement in order to address the potential conflict, while 3 cases were referred to the Ethics Office for final resolution owing to a disagreement between the staff member and PwC regarding the recommended compliance arrangement.

42. In relation to staff acceptance and understanding of the programme, of the 1,670 staff members who filed their financial disclosure documents, 116 staff members initially submitted their financial statements in blank, while 760 staff members, or 46 per cent, submitted an incomplete statement. This is likely due to the fact that it was the first time the financial disclosure programme was introduced and implemented in the Secretariat. Each of these staff members was subsequently contacted and requested to fully meet their filing obligations. A fundamental goal of the programme for the 2006 filing period has been to increase the acceptance and understanding of the programme for staff members.

43. In addition to the review process, an important and integral part of the financial disclosure programme is the "verification process", which was conducted at random among staff members of all grades and offices. The intent of the "verification process" is to validate the information disclosed in those randomly selected 2005 financial disclosure statements and to ensure completeness of the information disclosed. No significant discrepancies were found by the external financial firm.

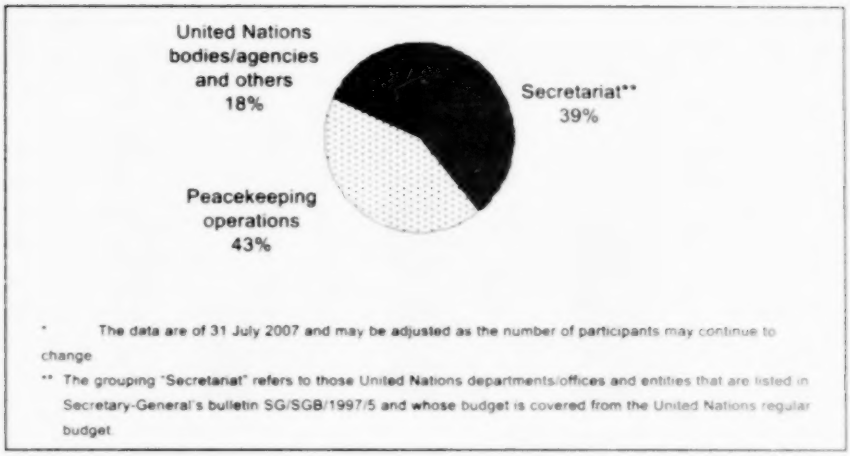
44. Owing to the delayed commencement of the 2005 filing cycle and the compression of time left for the development of an Internet-based filing system, the current 2006 filing cycle covering the period 1 January-31 December 2006 only began in May 2007. However, in future years, the filing cycle will revert to the established annual dates in March. Department heads have identified 2,584 staff members who are required to comply for the 2006 programme. PwC began reviewing all of the submitted 2006 statements in July 2007.

45. The new online e-filing system, which was developed by PwC in liaison with the Ethics Office, enhances efficiencies and standardizes procedures not only for staff but also for the Office and the external financial firm. Information is stored in a secure encrypted database with linkages to the site governed by a United Nations designated third-party secure socket layer digital certificate provider. The system meets with the United Nations general security/information technology functionality requirements. This secure online filing system, following a staff member's initial entry of data, will simplify and expedite future filing requirements, as only an update to individuals' already disclosed private interests will be required. Such standardization and secure retention of data ensures the operation of a more efficient and less time-consuming task for staff members.

46. Furthermore, the Ethics Office and PwC have developed an online training programme to familiarize staff members with the process, language and requirements of the financial disclosure programme. The training package has been produced in both English and French and all training resource materials will be updated in line with future developments. In the second quarter of 2007, the Office visited eight duty stations to provide outreach and training to staff regarding the programme and its new developments.

47. Figure 7 below illustrates the breakdown of the distribution of participants in the financial disclosure programme for the 2006 filing period by organizational grouping: the Secretariat (including United Nations departments/offices and entities which are listed in Secretary-General's bulletin SG/SGB/1997/5 and whose budget is covered from the United Nations regular budget); peacekeeping operations; and United Nations bodies/agencies and others. It is noteworthy that the largest group of those required to file financial disclosure statements are from peacekeeping operations (43 per cent) followed by the Secretariat staff (39 per cent). It is also worth mentioning that 77 per cent of the total filing staff are located in duty stations outside Headquarters.

Figure 7
Financial disclosure participation by organizational grouping
(2006 filing period)*



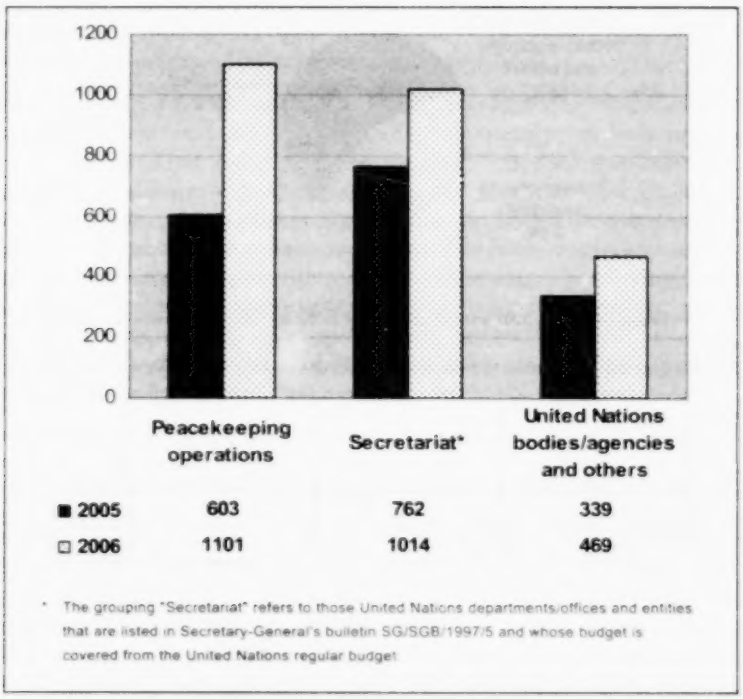
* The data are of 31 July 2007 and may be adjusted as the number of participants may continue to change.

** The grouping "Secretariat" refers to those United Nations departments/offices and entities that are listed in Secretary-General's bulletin SG/SGB/1997/5 and whose budget is covered from the United Nations regular budget.

48. The Ethics Office has received requests from various United Nations bodies and agencies (that were not originally obliged to adhere to the programme) to join in the financial disclosure programme. It has also liaised with other United Nations bodies and agencies that are in the process of establishing their own financial disclosure programme in order to share best practices. It will continue to monitor and encourage these bodies and agencies, as a matter of good governance, to develop and implement the same or similar programmes in the interest of the harmonization of United Nations-wide financial disclosure programmes.

49. Compared to the corresponding figures for the 2005 filing period, the number of staff required to file financial disclosure statements for 2006 has increased considerably. Figure 8 below presents a comparison of the participation levels between the two filing periods, in which the most notable increase is found in peacekeeping operations (the number nearly doubled, from 603 participants in 2005 to 1,101 participants in 2006). The overall increase likely reflects an increased awareness of the heads of departments as to the application of the financial disclosure programme in relation to their staff members' official duties and responsibilities as they particularly relate to procurement, investment of funds or being privy to confidential information regarding these matters.

Figure 8
Financial disclosure participation by year
(2005-2006)


1200
1000
800
600
400
200
0
Peacekeeping operations
Secretariat*
United Nations bodies/agencies and others
2005 603 762 339
2006 1101 1014 469
* The grouping "Secretariat" refers to those United Nations departments/offices and entities that are listed in Secretary-General's bulletin SG/SGB/1997/5 and whose budget is covered from the United Nations regular budget

50. The Ethics Office considers it necessary, in light of its own experience and feedback from both United Nations staff and PwC, to review the current online disclosure form and accompanying guidelines. Consultations with the Information Technology Services Division, the Office of Human Resources Management, the Office of Legal Affairs and other relevant offices will be carried out regarding modifications needed in order to align the policies and procedures with the programme requirements and processes.

51. Furthermore, the Ethics Office is in the process of conducting a review (as per the request of Member States) as to whether financial disclosure statements should be required of officials other than Secretariat officials and experts on mission with a fiduciary role. Given the policy-setting or oversight roles and the independence of the bodies and status of the members involved, careful consideration will be given to the question as to the need for an appropriate financial disclosure system for their members.

E. Protection of staff against retaliation for reporting misconduct and cooperating with duly authorized audits or investigations

52. The policy on protection against retaliation for reporting misconduct and for cooperating with duly authorized audits or investigations entered into force on

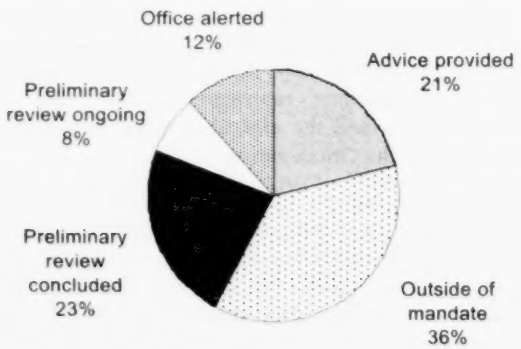
1 January 2006 with the publication of Secretary-General's bulletin ST/SGB/2005/21. This bulletin formalizes protective measures for staff members under threat of, or experiencing, retaliation for duly reporting misconduct in their working environment, or for cooperating with duly authorized audits or investigations. Once a prima facie case has been determined to exist, the policy shifts the burden of proof to the Organization, requiring the Administration to show that it would have taken the same action absent the protected activity.

53. Since its inception, the Ethics Office has been developing procedures and methodology associated with the handling of such cases. In this regard, an initial assessment of a case is made in order to determine whether it falls within the scope of the mandate and warrants a preliminary review. All complaints are handled according to specific procedures ensuring confidentiality and prompt attention.

54. For the current reporting period, the Ethics Office received 52 complaints of retaliation. After the initial assessment, it was determined that 16 complaints, or 31 per cent of the overall total, warranted a preliminary review. Of the 16, 2 cases were referred to the Office of Internal Oversight Services for further investigation following a determination that a prima facie case of retaliation had been established. No prima facie case was found in 10 cases and 4 cases continue to be under review.

55. Of the remaining 36 complaints, or 69 per cent of the overall total, 19 complaints fell outside the scope of the mandate and/or were referred by the Ethics Office to other offices, while 11 complainants were provided with advice and guidance on the more appropriate recourse mechanism to address their concerns. In addition, the Office was copied on six complaints that were primarily addressed to other departments or offices. In these instances, the Office keeps track of and follows up on any pending action by other offices. Figure 9 below presents a breakdown of retaliation complaints by category.

Figure 9
Retaliation complaints by category
(1 August 2006-31 July 2007)



56. The Ethics Office continues to consult with the Office of Human Resources Management, the Office of Legal Affairs, the Office of the Ombudsman, the

secretariat of the Joint Appeals Board and the Office of Internal Oversight Services to coordinate its response to individual cases or complaints, without compromising the confidentiality of sensitive information. This coordination is crucial to reducing the duplication of responses by the aforementioned offices in instances of multiple reporting of the same complaint.

57. During the current reporting period, the Ethics Office has been reviewing the policy in light of the issues raised in the complaints received. The policy review is an ongoing process, intended to identify any gaps and areas that require strengthening. Where appropriate, the Office has sought clarification on scope and application from the Office of Legal Affairs.

IV. Observations and recommendations

58. As stated at the beginning, the current report covers the first full operating cycle of the Ethics Office, from 1 August 2006 to 31 July 2007. The Office was fully staffed with a regular team and a new Director in May 2007. The activities undertaken by the Office during the reporting period, the increased volume of requests it received and the diversity of the requests for its services, in terms of the source of requests (that is, geographical location and United Nations entity), the varying professional levels of enquiring staff and the type of ethics issues raised as well as their complexity, clearly demonstrated the growing demand for the functions and services of the Office.

59. The Ethics Office considers it to be of utmost importance for the Organization to cultivate and nurture a culture of ethics, integrity and accountability in its work environment, beyond compliance with regulations and rules, and thereby to enhance the trust and credibility of the United Nations, both internally and externally. This will require further efforts and investment on the part of the Organization in raising staff awareness of ethics and integrity through training, education and advice, and by encouraging the harmonization of standards and their application throughout the United Nations.

60. A challenge for the Ethics Office remains the necessity to increase the awareness and compliance of staff members with the financial disclosure programme and to ensure that potential and/or actual conflicts of interest are prevented and managed at the outset, without any subsequent need for intervention. The financial disclosure programme represents a significant contribution to enhancing accountability efforts and the ethical mindset of the Organization, and helps to increase confidence in the Organization.

61. In view of the increased number of participants in the financial disclosure programme, it will be necessary to allocate additional resources in order to cover the associated costs for the external review of disclosure statements. Furthermore, the current contractual arrangements with the external financial firm are due to terminate during the month of October 2009, at which juncture the responsibility for the review and system hosting of the programme may revert to the Organization. In this regard, in the event that these responsibilities are assumed by the Ethics Office during the biennium 2008-2009, planning associated with resource allocation and development of the requisite in-house expertise will have to occur.

62. Although the protection against retaliation policy is linked to the internal justice system, the Ethics Office has thus far not been an integral part of the discussions on the reform of the administrative justice system based on the report of the Redesign Panel. This was partly due to the fact that the Office was newly established in January 2006 when the Panel had nearly completed its review. Consequently, in the final report of the Panel, there is no substantive discussion related to the Office and its role, current and future, within the administrative justice system. As a result, the Office has not had an opportunity to provide input on its role in the proposed new administrative justice system vis-à-vis other offices, such as the Office of Internal Oversight Services and the Office of the Ombudsman. It is important that the Ethics Office be included in the process of consideration of the proposed new administrative system. To this end, the Office will continue to review the policy on protection against retaliation in conjunction with other relevant offices, such as the Office of Legal Affairs and the Office of Human Resources Management in order to suggest amendments that would best fit within the internal justice mechanisms, particularly during and after the changes recommended by the Redesign Panel have been implemented.

63. In order to make its work better understood and to respond effectively to the growing demand for its services, in future, the Ethics Office needs to reach out to staff at different duty stations, including peacekeeping operations and regional commissions, through different ways and means. Outreach activities may include regular briefings, and annual training for senior mission leadership and procurement, finance, personnel and administration staff. Collaboration between the Office and other relevant departments and offices and United Nations bodies and agencies is important in order to forge harmonization in standard-setting and application.

64. It is important for the Ethics Office to expand its professional networking and collaboration with ethics and compliance offices in other institutions in the public, non-profit and private sectors. This partnership will help ensure that the Organization's efforts in standard-setting and culture change are in line with general trends and the latest developments, and with those adopted by professional organizations in regard to ethics and integrity.

65. Independence and impartiality are of vital importance in the functioning and operation of the Ethics Office, as is the case of ethics and compliance offices in any credible public institution. This status must be actively and effectively preserved and strengthened as the demand for upholding the highest standards of integrity becomes more pressing and the Office's work evolves.

66. With regard to evaluation, the General Assembly, in its resolution 60/254, requested the Secretary-General's views on the possible establishment of a group of internationally representative experts to provide periodic, independent assessment of the Ethics Office for the consideration of the Assembly at its sixty-second session. In view of the fact that: (a) the Office is 18 months old; (b) it only completed its first full operation cycle in July 2007; and (c) it only became fully staffed with a regular team and a new Director in May 2007, more time is required in order to permit the Office to put in place new policies, operating procedures and practices, and make necessary adjustments as its work evolves.

67. With regard to the request of the General Assembly to the Secretary-General to report on the staff perception of the impact of the Ethics Office on improving ethics

and integrity in the Organization, as contained in paragraph 16 (h) of resolution 60/254, preliminary work has been undertaken relating to the conduct of a second integrity awareness survey, during which the perception of the staff of the impact of the Office will also be sounded out.

68. In response to the request made by the Advisory Committee on Administrative and Budgetary Questions, as contained in paragraph 25 of its report (A/60/7/Add.13), that the Secretary-General describe the various ethics activities carried out by different organizational entities within the Secretariat, laying out a plan for coordination among them and exploring the possibility for redeployment of resources to the Ethics Office if needed, a preliminary survey of such activities has been carried out by the Office. A compilation of ethics-related activities undertaken by different departments/offices and entities is being developed.

69. The initial findings from the survey demonstrate that existing standards, in particular the United Nations Code of Conduct, that are applicable to the global Secretariat and other related rules and regulations remain the key authoritative source of guidance to the staff on ethics and integrity. In addition, a number of departments/offices and entities have developed department-specific supplemental codes, rules, guidelines, information or training in order to better inform staff members how to discharge their duties while at the same time ensuring that they, their family members and associated third parties do not benefit or appear to benefit from the decisions they make, the influence they may have or the information to which they may be privy. These include specific supplementary codes, such as codes of conduct with ethics components or conflicts of interest (for example, the code of conduct for human rights officers, a statement of independence for auditors, the declaration of principles for personnel of the Investigations Division of the Office of Internal Oversight Services), departmental specific rules which deal with the acceptance of gifts, outside activities, specific departmental training programmes, manuals and/or publications on ethics-related issues. Several departments/offices and entities have a designated focal point from whom staff can seek advice and guidance on ethics-related matters.

70. The Ethics Office continues to review the information it has received so far on ethics activities in various United Nations departments/offices and entities with a view to developing a plan to better coordinate them and exploring the possibility of effectively utilizing the resources available, including for possible redeployment of resources to the Office for stronger programme impact within the Secretariat, especially as the Office's work evolves over time.

V. Conclusion

71. Having completed its first operation cycle, the Ethics Office has well asserted its raison d'être and functions as a guardian of ethical standards and integrity of the United Nations and a source of guidance and advice for staff on ethics. Given the clear need to build a culture of ethics, integrity and accountability, and the growing demand for its services, the Office must continue to be an active and leading player in the ongoing process of United Nations management reform. In doing so, preserving the interests of the Organization and the highest ethical values and standards of integrity remain the ultimate goal and principle of its work.

Strengthening its independence and impartiality is one of the prerequisite premises for the Office to be successful and effective in fulfilling its mandate and functions.

72. The Ethics Office will continue to reach out to both staff and management as well as Member States and other stakeholders in the performance of its functions.

73. It is of crucial importance to uphold the highest standards of integrity among United Nations staff members, in accordance with Article 101 of the Charter of the United Nations. To this end, ethical standards must be scrupulously applied system-wide in a coherent manner and a code of ethics be developed for all United Nations personnel, as called for in General Assembly resolution 60/1 on the 2005 World Summit Outcome. While the main responsibilities of the Ethics Office have been clearly set out in Secretary-General's bulletin ST/SGB/2005/22 and endorsed by the General Assembly in its resolution 61/254, its jurisdiction is not system-wide. **In this regard and in order to ensure the coherent application and harmonization of ethical standards among all United Nations personnel, the General Assembly may wish to consider broadening the jurisdiction of the Ethics Office to cover all United Nations system entities and to provide further guidance on this matter.**

74. The General Assembly may wish to decide to consider, in its future sessions, the annual report of the Secretary-General on the work of the Ethics Office under a separate item, as appropriate.

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Item 72 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

The situation of human rights and fundamental freedoms of indigenous people

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the report of Rodolfo Stavenhagen, Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, pursuant to paragraph 18 of Commission on Human Rights resolution 2005/51.

* A/62/150.

** The submission of the Special Rapporteur's report was delayed owing to the need for consultations.

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Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people

Summary

The present report, on activities carried out between October 2006 and July 2007, highlights some indigenous rights issues which the Special Rapporteur deems to be worthy of special attention.

The report is divided into different sections that describe the various activities carried out by the Special Rapporteur in the framework of his mandate, such as following up on his recommendations, promoting indigenous rights and providing technical advice in that regard. This report includes the Special Rapporteur's views on new challenges with respect to the protection of indigenous peoples' rights throughout the world, as well as a specific analysis of the situation of indigenous rights in Asia.

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I. Introduction

1. This is the fourth report submitted to the General Assembly by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. During the period under review, the Special Rapporteur submitted his annual report to the Human Rights Council at its fourth session (A/HRC/4/32 and Add.1-4). The present report is submitted pursuant to Commission on Human Rights resolution 2005/51.

2. The period under review encompasses the activities carried out between 3 October 2006 and 31 July 2007. Like the Special Rapporteur's preceding report to the General Assembly (A/61/490), this year's report refers in particular to a number of issues which, in his view, are of special importance for the promotion and protection of indigenous peoples' rights. The report also includes an analysis of the situation of indigenous peoples in Asia, an issue that was specifically considered at the sixth session of the Permanent Forum on Indigenous Issues.

II. Mandate

3. The Special Rapporteur's mandate was established by Commission on Human Rights resolution 2001/57 and was renewed by Commission resolution 2004/62 and by Human Rights Council decisions 1/102 and 5/101.

4. By its resolution 2005/51, the Commission on Human Rights requested the Special Rapporteur to begin preparing a study regarding best practices carried out to implement the recommendations contained in his annual reports. Accordingly, the Special Rapporteur submitted a report on the subject to the Human Rights Council at its fourth session.

III. Activities carried out by the Special Rapporteur in fulfilment of his mandate

A. Report to the Human Rights Council

5. On 20 March 2007 the Special Rapporteur submitted his second report to the Human Rights Council; this was the sixth annual report under his mandate. The report covered the activities carried out between September 2006 and March 2007. During that time, the Special Rapporteur continued to focus, as in previous years, on three main areas: the investigation and thematic development of issues affecting the situation of human rights and fundamental freedoms of indigenous people; country visits; and urgent appeals and alleged violations concerning indigenous peoples' human rights and fundamental freedoms.

6. The Special Rapporteur's main report and its annexes (A/HRC/4/32 and Add.1-4) contain information on the activities carried out in these three areas. Four annexes were submitted this year, concerning communications received and exchanged during the reporting period on alleged violations of indigenous peoples' human rights and fundamental freedoms (Add.1); the report of the Special Rapporteur's visit to Ecuador from 24 April to 4 May 2006 (Add.2); the report of his visit to Kenya from 4 to 14 December 2006 (Add.3); and the final version of his

study regarding best practices carried out to implement the recommendations contained in his annual reports, submitted at the request of the Commission on Human Rights (Add.4).

7. In his most recent report, the Special Rapporteur sought to draw the attention of the Human Rights Council and the international community as a whole to the new challenges affecting the survival of indigenous peoples' as peoples, with a view to guiding the efforts of Governments, international human rights bodies and civil society to better protect the rights of these peoples.

8. One trend that has gained momentum in recent years is the steady decline in indigenous territories, including indigenous peoples' loss of control over their natural resources. This process has been intensified by the dynamics of the globalized economy and, in particular, by the spread of new ways of exploiting energy and water resources.

9. The Special Rapporteur's report to the Human Rights Council also contains an analysis of the situation of communities that are particularly vulnerable as a result of various processes that cause them to lose control over their traditional lands and resources. This is the case, in particular, of forest peoples, which are deprived of their traditional living spaces with virtually no compensation or economic alternatives. Of special concern is the situation of the few communities that remain isolated in remote areas of tropical forests, which are now in danger of losing their traditional territories to powerful economic interests and are at serious risk of disappearing completely. Also in jeopardy is the existence of pastoral peoples in arid and semi-arid regions, owing to the privatization and division of their traditional grazing lands or the creation of nature reserves, which are gradually reducing their traditional living areas.

10. Extractive activities, large commercial plantations and unsustainable consumption patterns have led to widespread pollution and environmental degradation, which have been decried by world public opinion. These processes have a particularly serious impact on indigenous peoples, whose way of life is closely linked to their traditional relationship with their lands and natural resources. A breakdown in this relationship often leads to the forced displacement of indigenous communities; this, in turn, increases poverty and seriously undermines these peoples' nutrition, health and well-being.

11. To defend their rights and express their needs, indigenous people turn to various forms of organization and social mobilization that often represent the only means of making their demands heard. All too often, however, social protest is criminalized, giving rise to additional and sometimes serious human rights violations.

12. Increased migration by indigenous people is another reflection of globalization and of the inequality and poverty it engenders. Indigenous migrants are particularly vulnerable to human rights violations if they work in the agricultural or mining sectors, move to urban areas or emigrate to other countries. Forced migration of indigenous peoples is the result of the often desperate circumstances they experience in their places of origin.

13. Lastly, this year's report draws the Human Rights Council's attention to the persistently disadvantageous situation of indigenous women in many parts of the world. In the course of his six-year mandate, the Special Rapporteur has personally

heard and received a great deal of information on the discrimination, violence and abuse perpetrated against indigenous women, particularly adolescents and girls, in both rural and urban areas; in their countries of origin and abroad, where they are sometimes forced to emigrate; and occasionally in their own communities. Special attention to violations of indigenous women's rights is not yet provided for in the human rights protection agenda, and the efforts made to date by some of the specialized agencies of the United Nations are still incomplete.

B. Study regarding best practices carried out to implement recommendations

14. Together with his main report, the Special Rapporteur submitted, for the Human Rights Council's consideration, the final version of a study regarding best practices carried out to implement the recommendations contained in his annual reports, pursuant to Commission on Human Rights resolution 2005/51 (A/HRC/4/32/Add.4). In preparing the study, the Special Rapporteur took into account the results of various national meetings held in follow-up to his previous visits, which took place in Guatemala, Canada (see paras. 25-27 below), Mexico (paras. 28 and 29) and the Philippines (paras. 30 and 31); the work of the international expert seminar held in Montreal (para. 32); and the communications sent by various civil-society human rights observatories.

15. The study refers to a series of initiatives taken by Governments, international agencies, civil society and indigenous peoples themselves to implement the recommendations contained in the Special Rapporteur's reports. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has continued to implement a follow-up project in Mexico and Guatemala, with the active participation of both Governments and of indigenous organizations, to help ensure the effective implementation of the recommendations in those countries. One conclusion of the study is that implementation has been most effective in cases where there are specific initiatives, such as those of Mexico and Guatemala, that contribute to coordinated, systematic action on the part of the various stakeholders.

16. In addition to the above-mentioned thematic studies, the Special Rapporteur's most recent report to the Council included, as annexes, reports on his official visits to Ecuador — to which he had already referred in his preceding report to the General Assembly (A/61/490, paras. 20-24) — and Kenya.

C. Official visit to Kenya

17. Kenya's indigenous communities consist of minority hunter-gatherers and pastoralists, such as the Elmolo, Yakuu, Sengwer, Maasai and Ogiek, who live mostly in the arid and semi-arid lands and in the few forests that remain in the country. Their livelihoods and cultures have been traditionally discriminated against and their lack of legal recognition and empowerment reflects their social, political and economic marginalization.

18. The principal human rights issues they face relate to the loss and environmental degradation of their land, traditional forests and natural resources, as a result of dispossession in colonial times and in the post-independence period. In

recent decades, public policies such as the State's various attempts to modernize and sedentarize nomadic communities, or programmes to privatize communal ranches, have worsened these communities' economic, social and cultural rights situation. These circumstances have been made even more difficult by the frequent cases of corruption that have arisen in the allocation of Government and trust lands.

19. Special mention should be made of the growing difficulties faced by some of these communities as a result of their eviction to make way for the creation of protected natural areas in their ancestral lands. While these parks serve to generate foreign exchange for the national economy, their creation remains highly controversial because of violations of the land and resource rights of neighbouring communities, which are not allowed to carry out their traditional hunting and herding activities in these areas and, to date, have not been able to participate fully in their management or to benefit from the income they generate.

20. Social and infrastructure services in indigenous areas are inefficient and, in many cases, simply non-existent, with the result that these areas' poverty levels are above the national average. Indigenous children and women are particularly affected by the lack of access to social services on an equal footing with majority sectors of the country's population. They are also discriminated against with respect to property rights and are victims of harmful traditional practices such as female genital mutilation, which is also practised on many other girl children and adolescents in Kenya.

21. The democratization process in Kenya has permitted the emergence of indigenous organizations and networks that have succeeded in placing their concerns on the national agenda, especially in discussions on constitutional reform. The Government has announced important initiatives such as various community development projects in arid and semi-arid regions, as well as a universal primary education programme. It has also recognized the need for affirmative action in favour of herding and hunter-gatherer communities, especially in the poverty reduction strategy.

22. The Special Rapporteur, on the basis of his visit to Kenya this year, as well as his previous visit to South Africa (see E/CN.4/2006/78/Add.2) and his conversations with members of the African Commission on Human and Peoples' Rights and with other experts, has formulated some ideas on the problems of indigenous peoples which he would like to share with the members of the General Assembly.

23. In Kenya, as in other countries of the continent, all Africans are indigenous to the country, since most Kenyans are descended from the original inhabitants and in colonial times were considered "natives" by the authorities, regardless of their tribal or ethnic affiliation. At independence all inhabitants became free and equal citizens of the new States. However, geographic conditions and historical, social and cultural circumstances became defining characteristics that differentiated among the many tribes that now populate these countries. Thus, in many African countries the contested use of the term "indigenous" has implications for policy decisions and therefore for the human rights of the populations concerned. From a human rights perspective, the question is not who came first but the shared experiences of dispossession and marginalization. The term "indigenous" is not intended to create a special class of citizens, but rather to address historical and present-day injustices and inequalities. It is in this sense that the term has been applied in the African context by the Working Group on Indigenous Populations/Communities of the

African Commission on Human and Peoples' Rights, and this is also the intent of the Special Rapporteur's recommendations to African countries.

D. Follow-up activities

24. As in previous years, the Special Rapporteur has also focused on the question of the implementation of the recommendations contained in his annual reports and, in particular, those contained in his reports on country visits. These activities have provided important input to the aforementioned study on best practices (see paras. 14 and 15 above). Follow-up activities are a very useful way of strengthening dialogue among Governments, civil society, indigenous organizations and other relevant stakeholders involved in the implementation of the Special Rapporteur's recommendations, insofar as the latter make a meaningful contribution to the ultimate aim of promoting and protecting the rights of indigenous peoples.

25. Follow-up activities have included a forum entitled "Closing the implementation gap", which took place in Ottawa on 2 and 3 October 2006 and was attended by representatives of the Government and of various Canadian indigenous and human rights organizations. The forum made it possible to highlight experiences and identify ongoing obstacles to the implementation of the recommendations made to the Canadian Government by the Special Rapporteur during his official visit to the country in 2003 (see A/HRC/4/32/Add.4).

26. In recent years, the Canadian Government has adopted a series of measures relating to the human rights of indigenous peoples, which are mentioned in the relevant reports. Examples of such measures include the reparations awarded to victims of the residential school system for indigenous children, support for an educational programme designed to combat violence against indigenous women and a legislative reform enabling indigenous women to seek recourse before the national Human Rights Commission.

27. The forum also highlighted a number of delays, for instance in the implementation of the Kelowna Accord concluded in 2005 between Government ministers and indigenous organizations, and the continued existence of many conflicts relating to indigenous peoples' lands and territories. A particularly controversial issue, alluded to by a number of legislators during meetings with the Special Rapporteur, was Canada's negative vote on the United Nations Declaration on the Rights of Indigenous Peoples, which was adopted at the first session of the Human Rights Council in June 2006.

28. The steps taken in Mexico to follow up the Special Rapporteur's report on his 2003 official visit include a number of activities carried out in conjunction with OHCHR within the framework of the project on the promotion and protection of the human rights of indigenous peoples in Central America, with a special focus on Guatemala and Mexico (see A/HRC/4/32/Add.4, paras. 65-70).

29. Despite some progress, many important human rights issues referred to in the Special Rapporteur's recommendations have yet to be addressed in Mexico. It is difficult to implement the constitutional framework on indigenous rights, not only for reasons of political will but also because of its lack of coherence and legal ambiguity. The agrarian legal and judicial system is obsolete in relation to the contemporary recognition of indigenous peoples' rights over their land and natural

resources, and environmental policies have failed to sufficiently involve indigenous peoples. Development projects, such as the La Parota dam in the State of Guerrero, which has caused serious social conflict in the region, continue to threaten indigenous livelihoods.

30. National consultations on the implementation of the recommendations contained in the Special Rapporteur's report on his 2002 official visit to the Philippines were held in that country in 2007. Despite the progress achieved in certain areas, such as education and institutional reform (see A/HRC/4/32/Add.4, paras. 71-75), the status of indigenous peoples has not changed significantly since the last assessment of their situation four years ago. The considerable efforts of some public bodies, such as the National Commission on Indigenous Peoples and the National Commission on Human Rights, have still not made an impact on the human rights violations to which indigenous communities are subjected.

31. In some respects, it is clear that the human rights situation of indigenous peoples in the Philippines has worsened since 2002. While it is commendable that many communities have received certificates of ancestral domain title, complaints concerning land losses and lack of access to the natural resources necessary for survival persist. The rapid loss of forest resources, on which the livelihoods of many communities rely, is cause for concern. The legal framework underpinning current economic policies promotes the practice of stripping indigenous peoples of their lands, thereby benefiting a small group of international companies and other private interest groups holding concessions for mining, fishing, plantation agriculture, tourism and other activities undertaken at the expense of the ancestral rights of indigenous people, many of whom are facing forced eviction and other difficulties. The increase in extrajudicial killings, torture, enforced disappearances, unlawful detention and other serious human rights violations committed by the police, the army and paramilitary groups during ongoing social conflicts is also extremely serious.

32. An international expert seminar on best practices in the implementation of the Special Rapporteur's recommendations was held, under the auspices of the Government agency Rights and Democracy, the International Work Group for Indigenous Affairs (IWGIA) and other civil-society organizations, in Montreal from 5 to 7 October 2006. The seminar allowed the Special Rapporteur to hear the experiences and opinions of a large group of experts, including representatives of indigenous peoples, international organizations, regional human rights organizations and non-governmental organizations, on the impact of the recommendations set out in his country and thematic reports. The seminar's main conclusions, which provided valuable input to the study on best practices presented to the Human Rights Council, were the subject of a recent publication.[1]

E. Other activities

33. In April 2007, the Special Rapporteur took part in a joint technical assistance mission to Nepal with the Special Rapporteur on contemporary forms of racism,

[1] *Indigenous Peoples' Rights. The UN Special Rapporteur: Experiences and challenges. International Centre for Human Rights and Democratic Development, International Work Group for Indigenous Affairs (IWGIA), Tebtebba Foundation and Canadian Friends Service Committee (Quakers).* IWGIA Document No. 118, Copenhagen, 2007.

racial discrimination, xenophobia and related intolerance, Doudou Diène, and two experts from the Sub-Commission on the Promotion and Protection of Human Rights in order to provide technical assistance to OHCHR in Nepal in the design of its country-level policies on discrimination, with special emphasis on the situation of indigenous peoples, Dalits and other minorities, and to collect information on the human rights situation of the various indigenous groups.

34. Nepal is an extremely heterogeneous and culturally diverse country. However, its diversity has not been recognized by the State, which, from the outset, was constructed on an exclusionary model based on the language, culture and identity of the minority elite who have dominated Government structures and public life for more than two centuries. The fight against the structural discrimination caused by the State's exclusionary model is one of the greatest challenges for the country's current transition to democracy, which began with the people's movement of April 2006.

35. Indigenous peoples, known in Nepal as Adivasis or Janajatis ("nationalities"), account for 37 per cent of the country's population. Under the umbrella of the Nepal Federation of Indigenous Nationalities (NEFIN), they are, collectively, one of the main players in the current democratic transition process and are calling for the recognition of a new multi-faith, multi-ethnic, multilingual and multicultural State model. Indigenous peoples have also called for a far-reaching reform of the unitary State structure, including the creation of autonomous regions with the power to draft and implement standards and public policies on issues affecting them.

36. With a view to strengthening the mechanisms designed to safeguard indigenous peoples' rights, the Nepalese Parliament began the process of ratifying International Labour Organization (ILO) Convention No. 169 concerning indigenous and tribal peoples in independent countries. Ratification of that Convention, which, at the time of writing, was still pending before the Government, would be a significant step forward because it would ensure that the adoption of new standards and public policies was informed by progress made with regard to the protection and promotion of the rights of indigenous peoples at the international level.

37. In February 2007, two important meetings were held in Cambodia. The first was a seminar on indigenous peoples and access to land in Cambodia, organized by ILO, the Cambodian NGO Forum and OHCHR and attended by officials from various ministries dealing with the status of indigenous communities' land, as well as by representatives of those communities, international organizations and NGOs. The second meeting was the first Asian regional consultation with the Special Rapporteur. It was organized by the Tebtebba Foundation and the Asia Indigenous Peoples Pact Foundation (AIPP), with the support of IWGIA and the Regional Initiative on Indigenous Peoples' Rights and Development in the Asia Pacific (RIPP) of the United Nations Development Programme (UNDP). The consultation was attended by representatives of many organizations and indigenous experts from Asia, who gave the Special Rapporteur a comprehensive account of the main human rights issues affecting indigenous peoples in the region. The presentations and constructive debate that took place during the regional consultation, the first event of this type to be organized by the Special Rapporteur, contributed significantly to the identification of priorities for his future activities relating to Asia.

38. His participation in both the events held in Cambodia also offered the Special Rapporteur the opportunity to initiate a constructive dialogue with United Nations agencies and indigenous organizations in the country. They, among others, expressed their concern about the new land policy that is currently under discussion. That policy was the subject of a recent exchange of information between the Special Rapporteur and the Government; it is hoped that that preliminary exchange will contribute to the effective implementation, in cooperation with OHCHR, ILO and other relevant stakeholders, of existing domestic provisions designed to protect indigenous rights.

39. On 26 and 27 March 2007, the Special Rapporteur took part in the Arctic regional workshop on indigenous peoples' territories, lands and natural resources, organized in Copenhagen by the Sami Parliamentary Council, in collaboration with the Inuit Circumpolar Council and the Sami Council. The Arctic regional workshop was attended by the Chairperson and other members of the Permanent Forum on Indigenous Issues, representatives of Denmark, Finland, Norway and Sweden, representatives of the Sami Parliament and the autonomous government of Greenland, representatives of indigenous organizations and independent experts. The workshop, which provided input to the debate on the special theme of the sixth session of the Permanent Forum, gave the Special Rapporteur an in-depth view of the status of indigenous lands and territories in the region and provided him with an opportunity to initiate a dialogue on those issues with government officials and indigenous organizations.

40. To mark the 80th anniversary of the establishment of the ILO Committee of Experts on the Application of Conventions and Recommendations, an international colloquium entitled "Protecting labour rights as human rights: Present and future of international supervision" was held in Geneva in November 2006. As part of efforts to enhance his collaboration with ILO in the area of the application of international standards, the Special Rapporteur shared his experiences with issues relating to indigenous and tribal peoples that fell within the scope of the Organization's standards.

41. ILO Convention No. 169, the only international agreement focusing specifically on the human rights of indigenous peoples, has also been the subject of discussions at the German Bundestag, where, in February 2007, the Special Rapporteur was invited to speak to legislators about the importance of ratifying the Convention. Despite the interest and good faith of many members of that body, the proposal to ratify Convention No. 169 was not adopted on that occasion.

42. In July 2007, at the invitation of the Permanent Forum on Indigenous Issues, the Special Rapporteur took part in an international workshop on indigenous peoples and international companies, held in the Yamal-Nenets district of the Russian Federation. During the workshop, detailed descriptions were given of the human rights problems facing indigenous populations in regions such as Siberia, where heavy mining for hydrocarbons has, for several decades, been affecting the environment and the human rights of the local population. As well as human rights issues, the relevant obligations of State and private entities were also discussed.

43. In May 2007, as in previous years, the Special Rapporteur took part in the Permanent Forum on Indigenous Issues session in New York, during which he informed participants of his activities. The debate allowed him to reflect, together with Forum members, indigenous organizations and Government delegations, on the

general situation of indigenous rights and current trends, with particular emphasis on the situation of indigenous women and children. Issues relating to the protection of the human rights of indigenous peoples in Asia were also discussed and, in that context, the Special Rapporteur submitted a paper on the human rights situation of indigenous peoples in that region (E/C.19/2007/CRP.11). As on other occasions, he has stayed in contact with Government delegations, indigenous organizations and international agencies, which has allowed him to continue gathering information on developments affecting the human rights situation of indigenous peoples in specific countries and regions and to identify priority areas of action for the future. He takes the view that coordination between the Permanent Forum and the Special Rapporteur regarding the promotion and protection of the human rights of indigenous peoples is of the utmost importance.

IV. The situation of the rights of indigenous peoples in Asia

44. During the period under review the Special Rapporteur collected information from various sources on the situation of the human rights and fundamental freedoms of indigenous peoples in Asia; some of the activities described above were helpful in that regard. The situation of indigenous peoples, which represent tens of millions of individuals and are present in virtually all the countries of the region, has long been neglected and has only recently begun to be considered at the international level. One reason for the lack of a comprehensive analysis of the human rights problems faced by these peoples is the history of differences between Asian States in terms of how their laws and public policies refer to these peoples and define their legal status. Thus, while States such as Cambodia, Nepal and the Philippines explicitly use the term "indigenous", which is now used in international discourse on the subject, other countries have traditionally used different expressions, such as "tribal peoples" and "hill tribes", as well as similar expressions in local languages, such as Adivasis or Orang Asli, which refer to the idea of aboriginality. In other countries the legal and constitutional treatment of these peoples is not noticeably different from that of other minority groups; rather, they are subsumed under the category of "ethnic minorities" or "national minorities".

45. Irrespective of these variations, what these peoples have in common with indigenous peoples in other parts of the world is a set of cultural, social and economic characteristics that make them particularly vulnerable to marginalization and discrimination by majority sectors of the population in the countries they inhabit, exclude them from decision-making processes at all levels in their own countries and make them victims of systematic human rights violations.

46. The indigenous peoples of Asia are experiencing serious human rights violations as a result of the loss of their ancestral lands and territories. This process has gained momentum in recent decades and, in some cases, puts these peoples at risk of disappearing completely as peoples. The factors driving this process include the new push for large-scale plantation agriculture, especially in Indonesia, Malaysia and other South-East Asian countries, and the dramatic pace of deforestation as a result of State concessions and illegal logging. Peoples whose cultures and subsistence are inextricably linked to forests are particularly vulnerable to these processes, and in most countries they lack any means of defending their rights against State claims of ownership of forest areas.

47. Of special concern is the systematic practice of forcibly displacing and relocating indigenous communities to make way for the construction of infrastructure mega-projects, especially dams, or extractive activities. This practice has led to the removal of millions of indigenous and tribal families from their ancestral lands in countries such as India and China, at an incalculable human cost. The forced removal of these communities sometimes reflects a deliberate State policy of pursuing so-called economic "modernization" and eradication of traditional forms of shifting cultivation, as, for example, in the Lao People's Democratic Republic and Viet Nam, or the eradication of illicit crops, as in Thailand. The goal of modernization has also led to policies of sedentarizing peoples that traditionally practise nomadic herding in large areas of the Mongolian and Central Asian grasslands.

48. In the majority of cases, violations of indigenous peoples' land and natural resource rights are made possible by gaps in legislation in the Asian countries, most of which recognize neither indigenous ownership based on ancestral possession and use nor traditional cultivation or herding practices on an equal footing with other forms of production. To fill these gaps, some countries have adopted specific legislation on indigenous lands and resources, as in the recent case of India, which in 2006 adopted a new law recognizing the Adivasis' forest rights. Experience shows, however, that even where specific laws exist on indigenous lands, as in the case of the Philippines' Indigenous Peoples' Rights Act of 1997 or Cambodia's Land Act of 2001, their provisions are not fully enforced and indigenous peoples have complained that they are insufficiently implemented.

49. Cambodia s Land Act of 2001 is one of the few examples in Asia of legislation that expressly recognizes the rights of indigenous peoples and communities to their ancestral lands and natural resources, including recognition of their traditional practice of shifting cultivation. Even though this advanced legislation is in place, the indigenous communal land demarcation and titling process (regulated by the 2001 Act) is paralysed by the lack of implementing legislation or clear administrative guidelines. As currently designed, the demarcation process, which requires that indigenous communities be registered as public law entities, is a slow and cumbersome procedure that leaves such communities unprotected pending the issuance of the final communal property title.

50. When land ownership conflicts arise, in practice private interests with title to property are given priority over indigenous communities' claims. This, together with the failure to enforce the penalties established by the Land Act for cases of abuse, has helped to generate a climate of corruption and impunity whose end result has been to seriously reduce land ownership by indigenous peoples, to the point where many communities fear that there will be no land left to demarcate by the time demarcation is actually implemented.

51. Other major problems affecting indigenous land ownership in Cambodia include the granting of concessions for natural resource exploitation in areas that are part of indigenous ancestral territories. These concessions, which are inconsistent with the provisions of the Land Act and international indigenous rights standards, cause serious social problems, including the dispossession and eviction of indigenous communities.

52. Indigenous peoples in Asia have been especially hard hit by the armed conflicts that have plagued more than a few countries in the region since

independence, as shown by the recent or ongoing conflicts in Bangladesh, Myanmar, Nepal, north-eastern India, Indonesia and the Philippines. In some cases, indigenous communities have reacted to the denial of their rights by resorting to violence and joining the ranks of various insurgent movements. This has fuelled the generation of a vicious circle in which indigenous and tribal populations have been victimized by both insurgent violence and State repression, with widespread human rights abuses.

53. The Special Rapporteur has received many reports documenting the rights violations suffered by indigenous leaders and communities caught in the middle of these conflicts, including massacres, extrajudicial killings, disappearances and torture. Similar acts have been perpetrated in other countries in the name of the war on terror or drug trafficking, and have given rise to states of emergency involving looser enforcement of individual guarantees and the implementation of special legislation that has opened the door to abuse and impunity. This is the case, for example, of the Armed Forces (Special Powers) Act, which has been in force for decades in several states of north-eastern India and has been denounced by a number of international human rights organizations. Similarly, since the January 2007 declaration of a state of emergency in Bangladesh, numerous reports have been received of police and judicial persecution of prominent indigenous leaders in the Chittagong Hill Tracts and other parts of the country.

54. In the Philippines, political assassinations, including the killings of dozens of indigenous leaders and activists, have captured the attention of international human rights mechanisms. The Special Rapporteur denounced this situation at the time of his first visit to the Philippines, in 2002. In January 2007 he visited the country again and found that the number of killings had increased by more than 80, but the State had not yet taken effective measures to address the situation or provide reparation to the victims. In many of the cases documented, the violence is said to be linked to the defence of indigenous people's land and natural resource rights.

55. In Viet Nam and the Lao People's Democratic Republic, the Degar (Montagnard) and Hmong peoples continue to suffer repression as a consequence of their involvement in cold-war conflicts more than three decades ago, and serious violations of their rights have been documented. While many communities try to survive by seeking refuge in the forest, others have been able to escape into neighbouring countries such as Cambodia or Thailand, where they are sometimes detained under harsh conditions or returned to their countries of origin.

56. Several countries have promoted constructive arrangements for ending the conflicts that have broken out in Asia since the States of the region became independent and for recognizing and accommodating ethnic diversity within their own societies. Some of these arrangements lay the foundation for indigenous peoples' self-government with respect to decisions on issues that affect them directly, and open up opportunities for the effective promotion of their rights. Experience suggests, however, that these constructive arrangements have not been fully implemented in many cases and that they sometimes serve to mask continued acts of conflict and repression.

57. Peace agreements between various insurgent groups and the Governments of Bangladesh (in the case of the Chittagong Hill Tracts), India (in the case of Nagaland) and Indonesia (in the case of West Papua and, more recently, Aceh) are examples of such constructive arrangements that are intended to put an end to decades of conflict through the recognition of an autonomous status that sometimes

directly includes the indigenous peoples living in those regions. In most cases, however, indigenous peoples' hopes for a peaceful solution to conflict situations have been frustrated by the failure to implement these peace agreements or by the implementation of conflicting Government policies, particularly in the areas of demilitarization, internal migration and land rights. Occasionally, patterns of violence and human rights abuses typical of the conflict situations that these agreements seek to address are still discernible.

58. Women and girls are particularly affected by armed conflicts involving indigenous peoples, where sexual violence is systematically used as a weapon of war. Their situation of vulnerability makes them more likely than other population groups to be victimized by human trafficking networks or forced to become economic migrants under conditions of extreme precariousness, abuse and violence.

V. Conclusion

59. The effective recognition of indigenous peoples' rights is a human rights imperative which no country can subordinate to the objectives of national unity or development and which, in fact, strengthens progress towards these objectives rather than hindering it. The Special Rapporteur calls on all Member States and particularly, on this occasion, the Asian States to give priority attention to indigenous communities, regardless of the legal status afforded to these groups in their domestic systems, taking into consideration international norms and the positive examples found in comparative legislation in Asia and other parts of the world.

60. Asian States should be actively and constructively involved in international discussions concerning the rights of indigenous peoples, particularly regarding the Human Rights Council's activities in this area. Asian States, particularly those that are parties to International Labour Organization Convention No. 107, should consider promptly ratifying ILO Convention No. 169 concerning indigenous and tribal peoples in independent countries.

61. To enable the world's indigenous peoples to exercise all their human rights fully and effectively, the international community must recognize and respect the provisions of the Declaration on the Rights of Indigenous Peoples, adopted by the Human Rights Council in June 2006. The United Nations system, at all levels, has the ineluctable responsibility of championing the principles and objectives of this Declaration for the benefit of the hundreds of millions of people in the world who are of indigenous origin and whose rights have been trampled for so long. The General Assembly, in accordance with the founding principles set out in the Charter of the United Nations, should now embark on this momentous task.